Home (1952) Department.

R. SERIES.

G.O. Nos 1353-56.

Dated 28-12-53

FOR MYSORE STATE

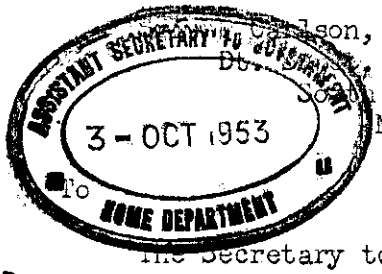
[Despatch Abstract.]

1

By Regd. Post.
Ref.C1/12290/53.

Office of the
Dt. Supdt. of Police, S.K.,
Mangalore, d/-29-9-53.

From



[illegible] Carlson,
Dt. [illegible] of Police,
South Kanara,
Mangalore - 1.

To

The Secretary to the Govt. of Madras,
Home Department,
Fort St. George,
M A D R A S.

188623
C3

S i r,

Sub:- Petitions for mercy from or on behalf of convicts under sentence of death - condemned prisoner No. 7137, Kavudiyan Muthu - S.C.No.10/53 of the Sessions Judge, South Kanara - copies of the ~~C.D. file~~ Case Diary file in Kasaragod Police Station Crime No. 47/53 u/s 302 I.P.C.- forwarded.

188623
3/10/53

Ref:- 1) G.O. Ms. No. 4290 Home dated 8-11-51 communicated with the endt. Rc. No. 2871/Acts/51 dated 23-11-51 of the Inspr.-Genl. of Police, Madras

2) Judgement dated 21-9-53 in Referred Trial No. 87/53 of the High Court of Judicature, Madras, confirming the death sentence passed against the condemned prisoner referred to.

***

7-21

With reference to the Government Order cited Ist above, I enclose herewith 2 certified copies of the English translation of the case diary file in Kasaragod police station Crime No. 47/53 u/s 302 I.P.C. The receipt of the copies of the Case diary file may kindly be acknowledged.

X

Dt. Supdt. of Police,
South Kanara.

Encls:- 2 copies of the C.D. file.

3
30/9 [illegible]

3

Home Department.

Memo. No. 188623 Cts.I/53-1, d/ 6-10-53

Petition for mercy - Condemned prisoner No. 7137, Kavudiyan Muthu - C.J., Cannanore - South Kanara S.C. No. 10/53 - R.T. No. 87/53 on file of High Court - Certified copies of English translation of the case diary - Receipt - Acknowledged.

Ref: From the D.S.P., South Kanara, No. C1/12290/53, d/29.9.53.

The receipt of two certified copies of the English translation of the case diary file in Kasaragod police station Crime No. 47/53, forwarded with the District Police Superintendent's letter cited, is acknowledged.

To the D.S.P., South Kanara, Mangalore 1.

Note: The draft above is w.r.t. the D.S.P.'s request at x on p1 c? The records from the High Court and the petition for mercy from the prisoner may be awaited. (R.D. 21.10.53).

H. Ct. Rules No. 134-A—1,002—2-52.

JUDICIAL DEPARTMENT.

REGISTRAR TO GOVERNMENT
10 OCT 1953
HOME DEPARTMENT

Received ——— —— ——19 . *Registered* ——— ——19

Subject.

ENCLOSURES.

No. ———

———

Spare copies———

Forwarding two copies of the printed records and two copies of the Judgments of the Court of Session and the High Court in Referred Trial No. 87 of 1953 (Criminal Appeal No. 462 of 1953), in which sentence of death was confirmed.

B.C. No. 406/53

Madras. *Dated the* 30-9-1953

From

DEPUTY REGISTRAR
APPELLATE SIDE,
HIGH COURT OF JUDICATURE,
MADRAS,

To

THE SECRETARY TO THE GOVERNMENT OF MADRAS,
HOME DEPARTMENT.

Sir,

I am directed to forward herewith two copies of the printed records and two copies of the Judgment of the High Court in Referred Trial No. 87 of 1953 (Criminal Appeal No. 462 of 1953), in which the sentence of death passed on the prisoner Karudiyan Muthu by the Sessions Judge of South Kanara in Session Case No. 10 of 1953 on his file was confirmed by the High Court on 21-9-1953.

Two copies of the Judgment of the Sessions Court in the case are enclosed.

D.S.I

Home Dept.

repetition for mercy may be awaited. (R.D. 21.10.53)

Rem 27/H 15/10/53 10th B

H 11 Oct 53.

~~Filed~~ ~~24/9~~

Your's faithfully,

Deputy Registrar, Appellate Side.

29.9.53.

17C 26/9

7

Assessor Case.

In the Court of Session, South Kanara.

July Session.

Present:— SRI P. T. RAMAN NAYAR, I. C. S.

Sessions Judge.

Thursday, the 9th day of July, 1953.

Sessions Case No. 10 of 1953.

Name of the Accused.	KAVUDIYAN MUTHU.
Charge.	Murder – section 302 I. P. C.
Assessors.	1. Sri Colaco Harold (R. C. Christian)
	2. Sri B. Bhoja Rao (Shiva Brahmin-Hindu).
	3. Sri M. Narasimha (Devadiga-Hindu).
	4. Sri K. Ramaraya Bhat (G. S. Brahmin-Hindu).
Opinion of the Assessors.	The assessors are all of the opinion that the accused is guilty of murder.
Finding of the Judge.	The accused is guilty of murder.
Sentence.	The accused is convicted under section 302 I. P. C. and, subject to confirmation by the High Court, he is sentenced to be hanged by the neck till he is dead.

The accused was defended by Sri T. Yusuf Haider, advocate, engaged by Court under rule 157 of the Criminal Rules of Practice.

The case was committed by Sri H. Ramesh Rao, Stationary Sub Magistrate, Kasaragod, in R. C. No. 3 of 1953 on his file (F. I. No. 47 of 1953 of the Kasaragod Police Station).

JUDGMENT

The accused is charged with the murder of his wife, Chirudai. He pleads not guilty.

2. The accused and the deceased were married about nine months before the occurrence and were living, together with the accused's sister, P. W. 1, and P. W. 1's son, P. W. 2, in the village of Bedadka. According to P. Ws. 1 and 2, the accused was treating his wife badly and about six weeks before the occurrence, which was on the 11th of March 1953, she went home to her parents. On the day before the occurrence, at the instance of the accused, P. Ws. 1 and 2 went and fetched her back on assurances of better treatment.

3. On the morning of the 11th, P. W. 2, who is a barber by profession, left the house for work soon after his morning tea. As soon as he had left, the accused sent P. W. 1 to the house of his neighbour and landlord, P. W. 4, just across the valley (the two houses are in a valley between two hills, the accused's on the northern slope of the southern hill and P. W. 4's 150 yards away on the southern slope of the northern hill with a stream running in between — see the plan, Exhibit P-7) to get a special kind of tender cocoanut for medicinal purposes. When P. W. 1 left, the accused and the deceased were sitting on the verandah of the house; the deceased was cutting vegetables with the aid of a *chiruva-kathi*. P. W. 1 had hardly reached P. W. 4's house when she heard the deceased's cries to the effect that she was being killed. She ran back to her house, and, when she got near, she saw the accused hold the deceased by her throat against the wall inside the house and stab her with a knife. Then, he came out with the blood-stained knife in his hands and ran away eastwards. The deceased followed him

into the verandh where she fell down. P. W. 1 went to her help and made her sit, leaning against her. Then, she asked the deceased what had happened, and the deceased told her that the accused had asked her to spread the mat inside the house (apparently for sexual intercourse) and that, on her refusal to do so, he had stabbed her.

4. P. W. 4, who was working in his garden, and P. W. 2, who had not gone very far but was proceeding westwards along the southern slope of the northern hill, ran to the spot on hearing the deceased's cries. As they were going, they saw the accused climb up the hill behind his house and disappear. When they reached the house, they found the deceased in the verandah in the arms of P. W. 1 with a bleeding injury in her belly and when questioned, she told them that her husband had stabbed her.

5. P. Ws. 2 and 4 then went to the Patel, P. W. 5, about $2\frac{1}{2}$ miles away, where at about 10 a. m. P. W. 2 made the statement, Exhibit P-1. After recording this statement, the Patel went with P. Ws. 2 and 4 to the scene of offence where he saw the deceased and questioned her. She made the statement, Exhibit P-3, to the effect that the accused had called her in when she was cutting vegetables in the verandah and had stabbed and ripped open her stomach with a knife and run away, for what reason she did not know. P. W. 5 then sent the deceased to the hospital at Kasaragod and he forwarded Exhibits P-1 and P-3 along with his covering report, Exhibit P4, to the Police Station, Kasaragod.

6. The deceased was admitted into the Kasaragod hospital at 9.30 p. m. the same day. She died at one in the morning. P. W. 3, the doctor who attended on her, found that her abdomen had been ripped open with a knife, or some such sharp pointed weapon, causing a transverse incised wound 10" long right across the abdomen about $\frac{1}{2}$" below the umbilicus with the intestines and stomach protruding through the wound. The autopsy done the next day showed that the injury had cut through the small intestines in three places and torn the greater omentum. The injury was, in P. W. 3's opinion, a necessarily fatal injury.

7. On the night of the 11th, soon after her injury was sutured and bandaged, the deceased was examined in succession by the Magistrate, P. W. 6, and the Head-constable, P. W. 7. To them she made the statements, Exhibits P-5 and P-6, much to the same effect as Exhibit P-3.

8. P. W. 8 went to the village for investigation on the night of the 12th. The accused was not to be found either then or on the following day. P. W. 8 deputed men to trace the accused and he left word with the villagers that, if the accused was found, he should be taken to the Police Station. On the night of the 18th, P. W. 2 and one Chindan Nair (brother of P. W. 4) and others found the accused sleeping in a disused hut and caught him (beating him for the purpose, since he threatened to use his knife) and, after informing the Patel, produced him at the Police Station the following day.

9. The accused repeats what he said in his statement, Exhibit P-8, in the committing Magistrate's Court, namely, that the entire case against him has been concocted by his enemy Chindan Nair against whom, about a year ago, he had given information to the Excise authorities resulting in the search of his house and the seizure of some tabacco found there. He and the deceased were on loving terms right up to the end and he had no reason to take her life. On the contrary, P. W. 1 had not been treating the deceased properly and, because of the deceased's complaints, the accused and the deceased had begun cooking on their own. Because of this, P. W. 1 and her son, P. W. 2, bore him (the accused) a grudge and they proved willing tools in the hands of Chindan Nair. And the Patel, P. W. 5, had proved no less willing

10. On the morning in question, he (the accused) left his house for work and, when he left, the deceased and P. Ws. 1 and 2 were in the verandah of the house. The deceased was then peeling vegetables with the aid of a *mettukathi*

(a knife fixed to a wooden base with its point pointing upwards). When he had gone about a furlong, P. W. 1 cried out to him to come back and when he went back he found the deceased lying in the verandah by the side of the *mettukathi* with a bleeding injury on her belly. P. W. 1 told him that the deceased, who was subject to fits, had had a fit and had fallen heavily on the *mettukathi* and thus sustained the injury. To P. W. 4 and his brother, Chindan Nair, and others who came there shortly after, P. W. 1 repeated the same story, but Chindan Nair cautioned her against it and said that such a story would only result in herself and her son being implicated in the murder. He pursuaded her to change her story and say that the accused had stabbed the deceased and he also told her that, if the deceased was told, as soon as she regained consciousness, that her husband had stabbed her she would believe it since she could not know what had happened during her fit. Then, Chindan Nair and others went to fetch the Patel. Later, Chindan Nair's nephew brought some men in order to catch the accused and tie him up, and, on seeing them, the accused grew frightened and went and hid in the forest from where he kept a watch. After some time, the deceased's parents came and removed her to the hospital and right up to then the deceased was unconscious and had not spoken a word. The Patel, P. W. 5, never came to the house. In the night the accused went back to his house, which P. Ws. 1 and 2 had meanwhile vacated, and there, some nights later, he was caught and beaten by Chindan Nair and others and taken to the Police Station.

11. The accused has no witnesses to examine in his defence.

12. The assessors are all of the opinion that the accused is guilty of murder.

13. The evidence can leave no room for doubt that it was the accused that inflicted on the deceased the injury that caused her death–the accused's version of what took place, though ingenious, is fantastic and altogether unacceptable. P. Ws. 1 and 2 are the sister and nephew respectively of the accused and there is no reason why they or, for that matter, P. W. 4 should bear false witness against him even if it be true that the accused got P. W. 4's brother caught in an excise case, and that the deceased and accused had begun cooking on their own because P. W. 1 was not giving the deceased enough food. (These allegations were, however, denied by the witnesses and there is no proof of them excepting the accused's word of mouth. The help rendered to the authorities by P. W. 2 and Chindan Nair in apprehending the accused betrays no animosity on their part. They merely did what they conceived to be their duty.) Then, there is the very important testimony furnished by the statements, Exhibits P-3 and P-5, made by the deceased herself–the first to the Patel hardly three or four hours after the occurrence, and the second to the Magistrate about 12 hours later–leaving aside the oral statements made to P. Ws. 1, 2 and 4 immediately after the occurrence. It is certainly far-fetched to say that the deceased could have been tutored into making these false allegations against her own husband or that, not knowing how she had come by her injury, which again is most unlikely seeing that she suffered it in broad day light; and, apart from P. W. 1's denial that the deceased was ever subject to fits, the injury could not, as the doctor P. W. 3 has rightly opined, have possibly been caused by a fall over a *mettukathi*) was persuaded into believing that her husband had inflicted it. It is true that in Exhibit P-1, P. W. 2 did not refer to the fact that he and P. W. 4 had seen the accused go away from the house when they ran to it on hearing the deceased's cries. But that is not a vital omission and might very well have been due, as P. W. 2 has explained, to his confusion and excitement. It is certainly no reason for arguing that P. Ws. 1 and 2 are now speaking falsely. Nor do I think does the fact that P. W. 2 had proceeded about two furlongs from the house, preclude the possibility of his having heard the deceased's cries or having seen the accused run away. He was going alongside the hill opposite the house and the actual distance in a straight line between him and the house must have been much less than two

furlongs. Then, with regard to P. W. 1's evidence, it has been elicited that her version to the investigating officer was that, when she was about 30 yards from the house, she saw the accused come out of the house and go up the hill, not that she had actually seen the accused stab the deceased as she now states she did. Also from the doctor, that the injury found on the deceased's abdomen could hardly have been caused in the manner spoken to by P. W. 1, namely, with the accused holding the deceased by her throat against the wall with his left hand and stabbing her with the right, for, in that case, the direction of the injury would have been oblique rather than transverse. It might very well be that P. W. 1 is drawing on her imagination when she says that she actually saw the accused stab the deceased and has persuaded herself into believing that she saw what was a matter of necessary inference; but that, I do not think is sufficient ground for rejecting her entire evidence as false, supported as it is by the evidence of P. Ws. 2 and 4 and the report Exhibit P-1 made by P. W. 2 within an hour or two of the occurrence. So also, the fact that the motive alleged in P. W. 1's version of the deceased's statement finds no place in Exhibits P-3 and P-5 where on the contrary, the deceased states that she does not know why her husband stabbed her, is a matter of little importance. The deceased might have been shy to mention the motive to the Patel and to the Magistrate and, in any case, when the evidence clearly brings home the crime, proof of motive is immaterial. The accused, of course, does not commit himself to the well-nigh impossible theory that the deceased sustained her injury by falling over a *mettukathi*—he only says that that is what P. W. 1 told him—but if there were the least truth in his version, he would have been the first person to go and give information to the authorities instead of making himself scarce soon after the event. His statement that he withdrew only temporarily for fear of being caught and beaten by Chindan Nair and his men, and that, from the night of the 11th, he was in the house and that neither the Patel nor the investigating officer ever came there, is not entitled to a moment's credence.

14. Immediately after the occurrence, the deceased stated that it was the accused who had stabbed her; and she repeated this statement a number of times, practically up to the time of her death. The evidence of P. Ws. 1, 2 and 4 proves beyond doubt that the deceased and the accused were alone in the house at the time of the occurence and that, when they ran to the spot on hearing the deceased's cries, they saw the accused leave the house and go up the hill. There can be no doubt that deceased's statement is true.

15. In inflicting the injury, which was necessarily fatal the accused must have intended to cause death or at any rate, to inflict injury sufficient in the ordinary course of nature to cause death.

16. I convict the accused under section 302 I. P. C. There are no extenuating circumstances. Subject to confirmation by the High Court, I sentence the accused to be hanged by the neck till he is dead.

17. The accused is informed that if he wishes to appeal, he must do so within seven days.

Dictated to the shorthand writer, transcribed by him, and pronounced by me in open Court, this, the 9th day of July, 1953.

(*Sd.*) **P. T. Raman Nayar,**
Sessions Judge.

N. B. The accused will be confined in the Central Jail, Cannanore.

APPENDIX.

The following witnesses were examined:

FOR PROSECUTION.

1. Srimathi Mani *alias* Choyichi.
2. Sri Ambukka.

3. Dr. (Kumari) R. Chacko, Woman Assistant Surgeon, Government Hopital, Kasargod.
4. Sri Raman Nair.
5. Sri Puttaraja, Patel.
6. Sri U. Lingappaya, Stationary Sub Magistrate, Kasargod (now Deputy Tahsildar).
7. J. D'Souza, H. C. 335.
8. Sri K. Battiappa, Sub Inpector of Police.

FOR DEFENCE.

None.

The following exhibits were filed:

FOR PROSECUTION.

P-1.	11— 3—1953.	Statement of Sri Ambukka, P. W. 2, recorded by the Patel, P. W. 5.
P-2.	12— 3—1953.	Postmortem certificte issued by the doctor, P. W. 3, in respect of the examination of the dead body of the deceased.
P-3.	11— 3—1953.	Statement of the deceased Chirudai, recorded by the Patel, P. W. 5.
P-4.	Do.	Report of the Patel, P. W. 5, to the Kasargod Police Station.
P-5.	Do.	Dying declaration of deceased Chirudai recorded by the Magistrate, P. W. 6, in the Government Hospital at Kasaragod.
P-6.	Do.	Statement of the deceased Chirudai recorded by the Head Constable, P. W. 7, in the Government Hospital Kasaragod.
P-7.	13— 3—1953.	Eye-sketch of the scene of offence prepared by the Sub Inspector of Police, P. W. 8.
P-8.	22— 5—1953. 25— 5—1953. 6— 6—1953. 8 — 6—1953.	Statement of the accused in the commital Court.

FOR DEFENCE.

D-1.	8— 5—1953.	Deposition of Aingooran Raman Nayar, P. W. 4, in the committal Court.

MATERIAL OBJECTS MARKED.

1. A folding knife (dismantled).

(*Sd.*) **P. T. Raman Nayar,**
Sessions Judge.

(True copy)

No. of words 3111.

Sessions Judge.

SRINIVAS PRINTING WORKS, MANGALORE.

13

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Monday, the Twenty first day of September

One thousand nine hundred and fifty three

PRESENT:

The Hon'ble Mr.Justice Govinda Menon
and
The Hon'ble Mr.Justice Basheer Ahmed Sayeed

REFERRED TRIAL NO.87 of 1953.

Kavudiyan Muthu Prisoner (Accused)

Trial referred by the Court of Session of the South Kanara Division for confirmation of the sentence of death passed upon the said Prisoner in Case No.10 of the Calendar for 1953 on 9-7-1953.

CRIMINAL APPEAL NO.462 of 1953.

Kavudiyan Muthu .. Appellant (accused) (Prisoner)

Appeal by the said Prisoner against the said sentence of death passed upon him in the said case.

The case coming on for hearing upon perusing the petition of appeal, the record of evidence and proceedings of the said Court of Session and upon hearing the arguments of Mr. C.Karunakara Menon, Advocate engaged for the defence under Rule 228 of the Criminal Rules of Practice and Orders, 1931 and of the Public Prosecutor on behalf of the State the Court delivered the following

JUDGMENT: (Judgment of the Court delivered by Govinda Menon, J.)

1. The appellant has been sentenced to death by the learned Sessions Judge of South Kanara for having murdered his wife at 8 a.m. on 11-3-1953 in the village of Bedadka

in

in Kasargod Taluk. The appellant and the deceased had been married in the month of Edavam, i.e., May-June, 1952, and immediately after, the deceased was brought to the appellant's house. Being probably a follower of the Aliyasanthana system, the appellant was living with his sister, P.W.1, and her son, P.W.2. The joint family consisted of the appellant, his sister and his nephew. While so staying in that house, the appellant often used to illtreat her and beat her. As a result of continued illtreatment, the deceased went back to her parents' house in the village of Kolathur, about 3 or 4 miles away from the place of the occurrence and stayed there for some time. Thereafter, the appellant sent his sister, P.W.1, and his nephew, P.W.2, to effect rapprochement and bring back the deceased. Accordingly she was brought back, on the appellant's assurance of treating her properly, the previous day to the occurrence.

2 At about 8 a.m. on 11-3-1953, the appellant asked his sister, P.W.1, to go to their landlord's house, which was near by, for the purpose of bringing a special kind of tender coconut for medicinal purposes. Accordingly, P.W.1 left on that mission. P.W.2 had already left for his work. There were, therefore, at the time of the occurrence, only the appellant and the deceased in the house. Then, it is stated that P.W.1 heard a cry of the deceased from her house that she was being killed. When she heard this cry he had reached Raman Nair's house. Immediately she ran back to the house and on approaching the same saw the appellant stabbing the deceased in the belly with a pen-knife. They were both inside the house, and P.W.1 deposes that the appellant was holding the deceased by her throat, pushed

her

her against the wall and was stabbing her. When P.W.1 reached that place, the appellant came out and ran away carrying the blood-stained knife in his hands. Meanwhile, the landlord, Raman Nair, and P.W.2, also came there. After receiving the stab, the deceased came out and fell down on the verandah. P.W.1 helped her up and supported her leaning against her in a sitting posture. P.W.1 asked the deceased as to what happened and the deceased told P.W.1 that the appellant asked her to spread the mat inside the house but that she had refused to do so and thereupon the appellant stabbed her.

Then Raman Nair, P.W.4, and P.W.2, went to the village patel, P.W.5. They reached the patel's house 2½ miles away at 10 a.m. There P.W.2 gave the statement Ex.P-1 to the patel. In that statement P.W.2 states that on that morning after tea he had started from his house to go to Kolathur village. While he left the house, his mother, P.W.1, the deceased and the appellant were the three persons in the house. After going a little distance and while ascending a hill, he heard a dreadful cry from the house. At once he returned home. He found the deceased lying with a stab wound on the stomach. When he asked the deceased as to how she came by that wound, she stated to him that her husband had injured her with a knife. P.W.1 also told him like that and that was the information he was giving to the village patel. After recording that statement, P.W.5 went to the scene of the crime. There he saw the deceased on the verandah sitting leaning against P.W.1. He questioned her and recorded from her a statement Ex.P-3 wherein also she stated that that morning at 8 O'clock her husband, Muthu, had stabbed her and split her stomach with a knife and had

run

run away. The patel sent the statements, Exs.P-1 and P-3, along with the covering report, Ex.P-4, to the Police-station at Kasargod and copies to the Magistrate The patel got an improvised stretcher made and sent the deceased to Kasargod hospital, which is about 14 miles away. The evidence of P.W.3, the doctor, was that the deceased was brought to the hospital at about 9-30 p.m. on 11-3-1953, that on examining her, two main injuries on her person were visible, that the wounds were sutured and that she was given the best treatment available in the hospital but that inspite of that she died at 1 a.m. on 12-3-1953. Later on, P.W.3 conducted the autopsy on the body of the deceased and the post-mortem certificate is Ex.P-2. The injuries were stated to be ante-mortem. The two main injuries were (1) a sutured transverse wound 10" long just ½" below the umbilicus extending from the right side of the abdomen 5" lateral to the middle line straight to the left side to 5" length; the transverse colon. the stomach and the small intestines were protruding from that wound; and (2) an abrasion ½" by ½" on the medial aspect of the right toe. The opinion of the doctor was that death was due to shock and haemorrhage, resulting from injury No.1, which was necessarily a fatal wound.

Before the deceased succumbed, at about 10 p.m., the Stationary Sub-Magistrate, Kasargod, was intimated by the hospital authorities and he went to the Government hospital to take a dying declaration, which is marked Ex.P-3 in the case. Immediately before him, P.W.7, the Head Constable of Police, who had received information of the admission of the deceased in the hospital and had gone there, also questioned her and recorded

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recorded the dying declaration marked Ex.P-6 in the case. In both these dying declarations the deceased had stated that that morning her husband had stabbed her and inflicted those injuries on her person.

5. The Sub-Inspector of Police, on getting information, went to the hospital and held the inquest. Then he proceeded to the village late that night, and continued the investigation on 13-3-1953 and questioned P.Ws 1, 2, 4 and 5 at the scene of occurrence itself. The appellant was not in the village. He was apprehended eight days later by P.W.2 and one Chindan Nair, in a disused and ruined hut above Chindan Nair's house on a night. When the appellant saw P.W.2 and Chindan Nair, he took out a knife and threatened to stab them. Thereupon they beat him with sticks and ✗ with hands, captured him, bound him hand and foot and sent word to the patel, P.W.5, who came, took charge of him and sent him to the Kasargod Police station.

6. The evidence outlined above shows that on the morning of 11-3-1953, at 8 a.m., while P.Ws.1 and 2 were away from the house, the appellant asked the deceased to spread a mat which she refused, whereupon the appellant set upon her and stabbed her with the knife as a result of which she died. This fact is proved not only by the various dying declarations oral and documentary, but also by the evidence of P.Ws 1, 2 and 4. P.W.1. a sister of the appellant, on hearing a cry, comes to the scene and sees the appellant stabbing the deceased. P.W.2 also, on hearing the cry goes there and sees the appellant running away, and is told by the deceased that the appellant had stabbed her. P.W.4 Raman Nair, the landlord, who lives about 50 marus away, on hearing cries, goes to the scene of crime and is told by the deceased that the appellant had stabbed her. P.W.5, the patel, recorded

the

the dying declaration. Ex.P-3. from the deceased. P.W.6, the Sub-Magistrate, recorded the dying declaration, Ex.P-5. P.W.7. the Head Constable. recorded the dying declaration, Ex.P-6. Not only therefore do we have the direct testimony of P.W.1, but also the statements made by the deceased to various persons immediately after the crime that it was the appellant that inflicted the injuries. As against this evidence. the defence of the appellant is that Chindan Nair, who is a brother of P.W.4, was inimical towards him, and that it was at his instance that the case was foisted on him. He does not give any satisfactory explanation as to the reason for his absence from the village after the occurrence and why he was arrested in a disused hut eight days thereafter by P.Ws 2 and Chindan Nair. The learned Sessions Judge accepted the overwhelming evidence adduced by the prosecution, and, in a very closely reasoned judgment, found that the appellant is guilty of the offence. We have been taken through the entire evidence in this case by Mr.C.Karunakara Menon appearing for the appellant, and we are in agreement with the learned Sessions Judge that the appellant inflicted the injuries as a result of which she succumbed.

While P.W.1 was in the witness-box. in answer to a question from the Court. she stated that from what the deceased told her. she understood that the appellant had called the deceased for sexual intercourse and that being day time she had refused and that is why the appellant stabbed her. We have no doubt whatever that the immediate reason for the appellant stabbing the deceased was her refusal to have sexual intercourse in the morning. Even so, the question is whether there is

any

19

any provocation for the appellant to have committed the offence. We are definitely of opinion that the appellant had no provocation whatever. If a person calls his wife for sexual intercourse in the early morning and she refuses, it cannot be said that there is any kind of provocation for committing such a dastardly crime. On the evidence, which has been very closely analysed by the learned Sessions Judge, we have no reason to disbelieve the prosecution witnesses. P.W.1 is afterall the sister of the appellant, and there is no reason why she should speak falsely against the appellant. As against P.W.2, the appellant, in his memorandum of appeal, has suggested certain reasons, but we are of opinion that they are flimsy and are not entitled to any consideration at our hands. We have also the evidence of P.W.4, who came to the scene immediately after the occurrence. In addition, there are the number of dying declarations, Exs.P-3, P-5 and P-6, in all of which the deceased has consistently stated that it was the appellant who inflicted the injuries.

In these circumstances, we entirely agree with the learned Sessions Judge that the injuries on the deceased were inflicted by the appellant in the manner spoken to by the witnesses. The offence is certainly one under Section 302, and the conviction is right. It is confirmed. No extenuating circumstances can be attempted, much less proved, in a case like this. The sentence, therefore, is proper, and it is also confirmed. The appeal is dismissed.

(Sd) V.T.Kandaswami,
Dy.Registrar,Appellate Side

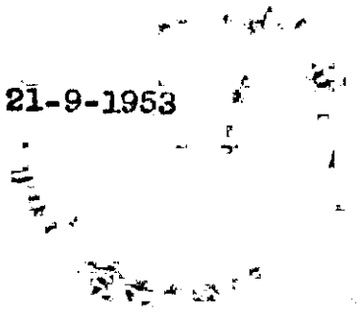
(true copy)

R Srinivasan
Sub-Assistant Registrar, 5/10
Appellate Side.

To
1.The Sessions Judge of the South Kanara Division (in duplicate for communication to the prisoner) with records.
2.The Superintendent,Central Jail, Cannanore with reference to his letter No.R/3467/53 dated 17-7-1953 regarding Condemned Prisoner No.7137.
3.The District Magistrate of South Kanara.
4.The Inspector General of Police, Madras.
(5) The Public Prosecutor, Madras.
(6) The Secretary to Government,Home Department,Madras (with covering letter and usual enclosures).

pag. 8

JD



JUDGMENT

Referred Trial No.87 of 1953

Crl.Appeal No.462 of 1953.

JD

Confirming the sentence of death passed on the prisoner in South Kanara Division Sessions Case No.10 of 1953, and dismissing his appeal.

SESSIONS CASE No. ... S.C.No.10 of 1953

DESCRIPTION OF ACCUSED

Name. ... Kavudiyan Muthu

Father's Name. ... Kavudiyan Ambu,

Caste or Race ... Kavudiyan (Hindu)

Occupation. ... C o o l y

Residence ... Bedadka Village, Kasaragod Taluk

Age. ... 27 years

DATE OF 1) Occurrence ... 11-3-1953

2) Complaint ... 11-3-1953

3) Apprehension ... 19-3-1953

4) Release on bail

5) Commitment ... 8-6-1953

6) Commencement of trial. ... 6-7-1953

7) Close of trial ... 7-7-1953

EXPLANATION FOR DELAY.

Chargesheet was received on the file of the Stationary Sub Magistrate, Kasaragod, on 1-4-1953 and the case was posted to 16-4-1953. As the Magistrate was on casual leave on 16-4-1953 the case was reposted to 29-4-1953. P.Ws.1 to 4 were examined on 29-4-1953 and P.W.7 on 12-5-1953. As the other witnesses summoned for 12-5-1953 were not served the case was adjourned to 19-5-1953. On 19-5-1953 the Assistant Public Prosecutor Grade II, wanted an adjournment as he had not received the case diary from the Police Station and the case was adjourned to 22-5-1953. P.Ws.8 to 12 were examined on 22-5-1953. P.Ws.8 to 12 were examined on 22-5-1953 and the case was posted to 25-5-1953 for further proceedings. The accused was questioned on 25-5-1953 and the case was adjourned to 28-5-1953. On 28-5-1953 the Assistant Public Prosecutor, Grade II applied for recalling P.W.11 and summoning two more witnesses as C.Ws. under Sec.540 Cr.P.C. The request was granted and P.W.11 was recalled and examined and the case was posted to 29-5-1953 for ~~examination~~ examining the Court witnesses. C.W.1 was examined on 29-5-1953 and C.W.2 on 4-6-1953. The case was committed to this Court for trial on 8-6-1953.

In this court the case was posted to 6-7-1953 the nearest date available.

Sessions Court, South Kanara

Mangalore, D/14-7-1953

Sd. P.T. Raman Nair,
SESSIONS JUDGE.

-/True Copy/-

AR/

Pencil 26/10

188623

23

PETITION FOR MERCY - URGENT.

(C.P. 32) 11,82,469 -24-12-52.

Madras Jail — Department	Received — Registered
From (Name) Sri.K.P.R.Menon,	To
Designation Superintendent,	The Secretary to Government,
Station Cannanore.	Home Department,
	MADRAS.

ASSISTANT SECRETARY TO GOVERNMENT HOME DEPARTMENT 26 OCT

Enclosures:

No. R.15/4663/53, dated 23rd October, 1953.

Sir,

Sub: Jails - Central Jail, Cannanore - Condemned prisoner No.7137, Kavadiyan Muthu - Petition for Mercy - Submitted.

196539
26/10

H 27.37 wpa I submit herewith a petition for mercy in english in duplicate from condemned prisoner No.7137, Kavadiyan Muthu, addressed to the Governor of Madras and the President of Indian Republic. He was sentenced to death in S.C.10/53 on the file of the Sessions Judge, South Kanara and the conviction and sentence was confirmed by the High Court, Madras in R.T. 87/53 and C.A.462/53 dated 21-9-53.

The execution of the prisoner has been fixed for 10th November, 1953 and I hereby certify that it will not be carried out until the receipt of the orders of the Government on the mercy petition.

M

H 25-26 wpa The Nominal Roll of the prisoner in duplicate is enclosed.

Superintendent.

Enc:
1) Petition in duplicate.
2) Nominal Roll in duplicate.

FORM No. 52. (*See* Rule 879, Part I of Vol. II, M.P. and R.M.) Judl. (Jail II)-18. 19.000—11—6—52

NOMINAL ROLL OF MALE* CONVICT No. 7137† A

Name Kaveedan Muttu S/o Kaveedan Ambu

Residence (Village, Taluk and District). Vedagam Village; Kasaragod; S. Kanara

Caste Hindu, Present age 27 years, Occupation Maydoor.

Section and Code under which imprisoned. Sec 302 IPC.

Original sentence of order and date. Death on 9-7-53

Adjudicating Court and Calendar number of case. Sessions Judge; South Kanara. S.C 10/53

Unexpired term of sentence after deducting remission earned, Sentence to death year (s) Month (s) Day (s),

Present state of health and fitness to undertake a journey † 14

Result of appeal (if any) Dismissed Dms R462/53 and RT87/53 A/21 9. by High Court; M

Conduct in Jail Good

Personal and descriptive marks§ 1) Blackmole 1" below the right ~~eye~~ groin

2) Mole + birthmark 4" away Rt. nipple at 5 o'clock position.

Remarks Class e – Dirt Rice – Sdn. A.

---

* Strike out and add " Female " when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M. P. and R. M.)

Mamaia Central JAIL,
23. 10. 1952

Superintendent.

Cannanore Central Jail,
23rd October, 1953.

To.

His Excellency the Governor of the State of Madras
and
The President of the Republic of India, at New Delhi.

Trhough:

The Superintendent,
Central Jail, Cannanore.

Most respectfully showeth:-

That Your Benign Excellecy's humble petitioner condemne prisoner No.7137, Kavuaiyan Muthu, now confined in this prison most humbly and respectfully begs leave to place his humble petition for mercy, in the fervent hope that it will be met with Your Gracious Excellency's prerogative and that of the benevolent governments' compassionate consideration.

That he is a young man of 27 years of age and was a barber by profession, and used to live with his sister, P.W.1 Srimathi Mani and P.W.2, Ambukka, her 20 years old son. It was a joint family and they had their home in the village of Bedadka, in the taluk of Kasargad in the South Kanara district. The house was a rented one from P.W.4, Sri. Raman Nair.

That nine months before the occurance he had married the deceased, who was a docile matured young girl of 20 years who was living with her parents and sisters and brothers about a few miles away from his house. After the marriage she was brought into his house at Bedadka and began to live in the joint family. As the time passed there arose some domestic misunderstandings and ill feelings against his wife by P.W.1, Mani, his sister and his wife was unhappy and had requested him oftento have their own house separately, but he could not afford it due to his impecunious circumstances and told her so urging her to wait until his penurious condition improves for better. She was very unhappy to live with his sister, P.W.1, Mani, who, she said, treating her like a mother-in-law, and which she did not like. In the circumstances he had no alternative but to send her back to her parents, until he makes

(con)

some other arrangements for her. Accordingly, she was sent six weeks before the occurance on 11-3-53, and he used to visit her at her parents house; and later on persuaded her to return promising to cook their food separately. She had consented and returned back to Bedadka with her mother and after settling her daughter in the house her mother returned to her own house.

4 That on the day of occurrance namely 11-3-53, after morning tea his sister P.W.1, Mani had gone out to purchase vegetables andhe himself had left the house immediately after her, as he had to attend a customer living nearly about two furlongs from his house, thus leaving his wife and P.W.2, Ambukka in the house. The customer on whom he had to attend was not at his house, and he therefore returned back home. When he reached the house, which had a verandah and one common room, he found the main door closed, which was an unusual thing at that time of the day. So he went round the house near to the low-levelled window which was covered with cocoanut palm reeds and peeped inside from the opening of the reeds; to his utmost horror he found his wife and the son of his sister, P.W.2, Ambukka were in compromising position, having sexual intercourse. He lost his head and at once taken the pen knife, which was in his pocket and used it. putting his hand through the opening of reeds and brought it down on the persons who were in that compromising position. The noise made while putting his hand through the reeds turned the head of P.W.2, Ambukka and he at once slipped over her leaving the force of the knife to be fell on the stomach of his wife and the force with which he had pulled the pen knife transversely towards him from left to right, the position he had stood near the window, had caused the injury to her and in the meantime P.W.2, Ambukka got out of the room and ran away towards the hill and seeing what had happened he too was frightened left the house and

(con)

remained in the neighbourhood until he was arrested.

5 That at the police station he told the police what had happened but they advised him that if he were to tell that shameful story it would not only be a disgrace but he would be hanged and therefore, he should make a statement that would save him from gallows. So, he thought that it would be better not to tell that compromising story, but give a statement as suggested by the police thinking that it would save him and that, that false statement he had repeated before the committing magistrate and as well in the trial court. He is an illetrate man and his belief that he would be saved by the advise of the plice and the lawyers who had instructed him to give that same statement had brought him to his present unenviable position.

6 That he has no desire to offer anything in the way of an argument, but he has no doubt, that it will be appreciated that P.W.1, Mani, his sister, in her anxiety to save her son, P.W.2, Ambukka being involved in the case, had stated that she had seen your humble petitioner holding the deceased by her throt against the wall with his left hand and stabbing her with the right. But the P.W.5, Dr. Miss. R.Chacko, the lady doctor, who attended on the decased had refuted that statement of P.W.1, Mani. If that were the case, as P.W.1, Mani had suggested, as she had seen with her own eyes, the injury could not have been ~~ex~~ a transverse, but it would have been an oblique. The Learned Sessions Judge glossed over this essential fact by stating that it might very well be that P.W.1, Mani is drawing on her imaginations and persuaded herself into believing that she saw what was a matter of necessary inference and did not think that is sufficent ground for rejecting her evidence as false. If she could deliberately tell such a contaminated false version certainly her evidence should have been carefully assayed. The P.Ws 2 and 4 did not tell the Patel, as shown in Exhibit 1,

(con)

that they had seen the accused go away from the house and that statement was made within an hour or so after the occurance and they could have remembered it very well. Then again the Learned Sessions Judge goes to the aid of the prosecution by suggesting an unreasonable pleax that it is not a vital omission and might well have been due to the exitement of P.W.2, Ambukka, of course, he was quite excited that was obvious; Be that as it may; the prosecution ha failed to put in thebox in the trial court the parents of the deceased to corrobarate the evidence of P.W.1, Mani, that the petitioner used to ill treat his wife. If that were true, the deceased would certainly have complained to her mother and father the reason or her returning back from her husband's house was due to his ill treatment; and the prosecution could have easily put them in thebox to prove the fact. Then again if he had been arrested as stated by P.W.2, Ambukka why P.W.4, Raman Nair, his land lord's brother Chindan Nair, who together with P.W.2, Ambukka had arrested him was not put in the box, in the trial court, to corroborate P.W.2, Ambukka. He was an important witness. It can easily be perceived that in her anxiety to save her son, she had created a motive with the tutored and will consarted advise of P.Ws 4 and 5 and others. That the motive for the crime was that the deceased told her that her husband, the petitioner asked her to spread the mat for sexual intercourse and that except P.W.2, Mani, none had stated not even the deceased herself to the magistrate and the police who took her dying declaration nor the Lady Doctor who attended on her to the very last the story that she supposed to have stated to P.W.1, Mani, assuming for a movement the deceased was shy in telling P.Ws4, 5, 6 and 7, becuase they were males, the reason why her husband (the petitioner) had stabbed her, there was nothing to prevent her speaking the truth to Dr.Miss.R.Chacko, Woman Assistant Surgeon, Government. Hospital, Kasargod, who attended on her. After all his

(con)

wife, the deceased was a simple village girl with a docile nature an not sophisticated in the ways of society and she would without any hesitation have disclosed to the Lady Doctor the truth.

7 That in this case P.Ws 1,2 and 4 made so many false and self contradictory versor of the crime conflicting their well conceived and suborned statements given at different times showing an anxiety to shield P.W.2, Ambukka. Be it as it may, the Sessions and the Appellate Courts, as it seemed have not appreciated the facts of this case, in regard to the evidence of P.W.1, Mani and P.W.2, Ambukka. Of course, he has no desire to labour on these facts except his desire and overborned anxiety to draw what has actually occurred that led him to this unenviable plight.

8 That he is a young man and at the time of the occurrance was living with a newly married young wife and to see that she was being enticed to misconduct herself with P.W.2, Ambukka and then for him to observe them in that compromising position as found by him would indeed lead any man of illiterate temperament to act as he did. Men with supreme sensible knowledge and minds would labour and have done no less in moment of such crisis and at times of such magnitude.

9 That he has been condemned to death and is now awaiting at the portal of the gallows. But if it were his inexorable destiny that he must suffer the extreme penalty of the law though it is said that mercy is the virtue of law; his anxiety is that before he leaves this earthly life to appear, before his Supreme Creator, at the Bar of His Divine Tribunal, he must go to his destiny with a clear conscience, knowing fully that he has to answer at that Divine Tribunal, his earthly sins of commissions and ommissions and hence

(con)

he begs to lay before Your Illustrious Excellency, every single fact that he has now placed in this petition and with all solemnity he calls upon the all seeing eye of God to witness that what he has laid in this humble petition for mercy is nothing but the truth.

That he fervently and penitently prays, Your Serene Excellency to show him mercy and compassion and to ~~remain~~ remit or mitigate his sentence at least to save him from the gallows. For which act of humanity he shall unto his death, ever remain with bounden gratitude.

x

Your Excellency's humble petitioner
Condemned Prisoner No.7137.

Certified that the contents have been translated in his vernacular, explained to him and acknowledged by him to be correct.

Superintendent,
Central Jail, Cannanore.

2nd dup of 15

Petition for mercy.

URGENT.

I

Home Dept. I-21—302—27-5-47.

39

HOME DEPARTMENT.

Abstract.

Petition for Mercy.

Reference.—Letter from the Superintendent of the Central Jail, Cannanore, no. R.15|4663|53, d. 23-10-53.

P23 C.P.

Memo. No. 188623 Cts. IV|53-3, dated 3|12 1953.

Having considered the circumstances of the case set forth in the foregoing paper, ~~His Excellency~~ the Governor of Madras sees no reason to interfere with the sentence of death passed on Convict No. 7137, KAVUDLYAN MUTHU.

2. The petition will be forwarded to the ~~Secretary to the Governor General~~ President of India and the execution of the prisoner should be postponed until the receipt of the orders of the ~~Governor General~~ President.

Rm 2/12/53

for 2/12/53

To the Superintendent of the Central Jail, Cannanore.

MP 2/12/53

P.T.O.

2.40

11

Home Dept. I-22—302—27-5-47

HOME DEPARTMENT.

46+47 3/12 Express Letter Reference No. 188623 Cts. IV/53-4, dated 3-12-53

To The Secretary to the Government of India, Ministry of Home Affairs, New Delhi ~~Simla~~

(with records and copy of pages 1-5 m.f. and).

SIR,

In accordance with instruction III of the instructions for the submission of petitions for mercy, I am ~~directed~~ to forward for the orders of the ~~Governor General~~ President of India the accompanying petition addressed to the ~~Provincial~~ Government and to ~~His Excellency~~ the ~~Governor General by Convict No.~~ President of India by Convict No. 7137, KAVUDIYAN MUTHU,

confined in the C.J., Cannanore, praying for the remission of the sentence of death passed on him by the Sessions Judge of South Canara and confirmed by the High Court of Judicature at Madras.

1. Petition with translation.
2. Nominal roll.
3. Records of the case (duplicate set).
4. Copy of summary of the case.

2. This Government have considered this petition but have seen no reason to differ from the finding of the High Court. A copy of the summary of the case prepared for the use of ~~His Excellency the Governor is attached~~. This Govt. and a statement showing all the relevant dates in the case are attached. They have no recommendation to make on behalf of the convict.

3. The execution will not take place until the orders of the ~~Governor General are received~~. President of India are received.

Yours faithfully,

Y. F.

Rec 2/12/53.

fdj 1/12/53

end

41

PETITION FOR MERCY: URGENT.

C.P. 32 11,82,400—24-12-52.

Madras Jail Department

From (Name) Sri.K.P.R. Menon

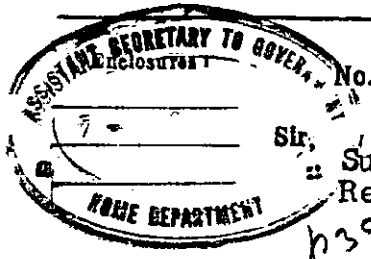
Designation Superintendent,

Station Central Jail, Cannanore.

Received ——— Registered ———

To

The Secretary to Government,
Home Department, Madras.



No. R.15/5231/53, dated 5-12-1953 195

Enclosures

Sir,

Sub:- Petition for Mercy
Ref:- Government Memorandum No.188623 Courts IV/53-3, Dated the 3rd December 1953.

I hereby acknowledge receipt of the above communication.

Superintendent.

Copy submitted to the Inspector-General of Prisons, Madras with a copy of Memorandum No.188623 Court IV/53-3 D/ 3-12-1953.

mvr.

218987
7/12

43

EXPRESS LETTER. REGISTERED.

No.32/194/53-Judl.2300.
Government of India
Ministry of Home Affairs.

From

Shri Gulzar Singh, M.A.,
Under Secretary to the Government of India.

To

The Secretary to the Government of Madras,
Home Department, Madras.

22707R
23/12

New Delhi-2, dated the 2nd December 1953.

Sanction

Your letter No. 188623 Cts.IV/53-4 dated the 3rd December 1953. The President of India declines to interfere on behalf of Kavudiyan Muthu under sentence of death in the Central Jail Cannanore. Petitioner may be informed accordingly.

Below

2. Records are returned herewith.

Gulzar Singh
(Gulzar Singh).
Under Secretary to the Government of India.

Petitions for Mercy. URGENT. Joins weekly in Secn. Rec 29/12 1.30 p.m.

Three drafts

I

95

Home Dept. I-23—302—27-5-47.

HOME DEPARTMENT.

Petition for mercy—~~Governor-General's~~ President's refusal to interfere—Communicated—

Condemned prisoner No. 7137, KAVUDIYAN MUTHU—C.J., Cannanore.

C. No. 188623/A43 CP. Ctn II/53.

From the ~~Deputy~~ Secretary to the Government of India, Ministry of ~~Home Affairs~~ under ~~dated~~ No. 32/194/53-Judl., dt. 22-12-53.

Order—R. No. 4355 dated 29/12/53

~~Governor-General~~ President of India has declined to interfere with the sentence of death passed on condemned prisoner No. 7137, Kavudiyan Muthu,

confined in the Central Jail, Cannanore.

Rec 29/12/53.

29-12-53

To the Superintendent, Central Jail, Cannanore

~~Hon'ble the Chief Justice~~ Registrar, High Court with reference to letter No. B.C.406/53 dated 30.9.53 and C.A. No. 462/53 C.R.T. No. ~~of 194~~ 87/53.

" Sessions Judge, South Canara (Ref. S.C. No. 10 of 1953).

Copy to the Inspector-General of Prisons, Madras.

Dept. R 29/12

P.T.O.

246

II

Home Dept. I-24—302—27-5-4

GOVERNMENT OF MADRAS.

HOME DEPARTMENT.

Express Letter, R. No. 4356 dated 29/12/53

To

The Secretary to the Governor-General (Public), Government of India, Ministry of Home Affairs, New Delhi / ~~Simla~~.

SIR,

Condemned prisoner No. 7137, Kaveadiyan Muthu.

Reference—Express Letter No. 32/194/53-Judl., dated 22/12 1953, from the ~~Deputy~~ Secretary to the Governor-General (Public), Government of India, Ministry of Home Affairs. (President of India)

I am ~~directed~~ to acknowledge receipt of the Express Letter quoted above stating that the ~~Governor General~~ has declined to interfere on behalf of prisoner No. 7137, Kaveadiyan Muthu,

under sentence of death in the Central Jail, Cannanore.

29/12/53

29.12.53

Your obedient servant,

P.S.G.

INVEST WISELY
Buy NATIONAL SAVINGS CERTIFICATES

47

INDIAN POSTS AND TELEGRAPHS DEPARTMENT

Class X F G

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ASSISTANT SECRETARY TO THE GOVERNMENT
-2 JAN 1954
HOME DEPARTMENT

Office stamp: 2 JAN 54

Recd. from .....

By.....

Sent at.....H.....M

To.....

By.....

Handed in at (Office of Origin)	Date	Hour	Minute	Service Instructions	Words

To [illegible] Read. here at 7.13 P.M.

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N. B.—The name of the Sender, if telegraphed, should be written after, but separated from the text.

Navabharat Printers & Traders Madras-1—[illegible] Bks. 65,000—[illegible]

PETITION FOR MERCY.

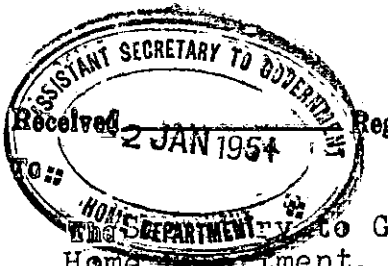
F. 32—14'67,650—21-3-52.

Jail Department

From (Name) Sri K.G.Menon, I.C.S.,

Designation Inspr.Genl.of Prisons,

Station Madras.



Received Registered

To:

The Secretary to Government,
Home Department,
Madras.

Enclosures:

No. 108/S4/53-II dated 30-12-53. 195 .

Sir,

Sub: Petition for mercy - President's refusal to interfere - Communicated - Condemned prisoner No.7137, Kavudiyan Muthu - Central Jail, Cannanore.

Ref: G.O.R.No.4355, Home department, dt.29-12-53.

- - -

The receipt of the G.O.cited is hereby acknowledged.

FOR INSPR.GENL.OF PRISONS.

TMS/31-12-53.

PETITION FOR MERCY - URGENT.

51

C.P. 11,82,100—24-12-52

MADRAS JAIL Department

From (Name) Sri. K. P. R. Menon,

Designation Superintendent,

Station Central Jail, Cannanore.

Received Registered

To

The Secretary to Government,
Home Department,
Fort St. George,
Madras.

ASSISTANT SECRETARY TO GOVERNMENT
2 JAN 1954

Enclosures:

No. R 15/ 5386/53. dated 1-1-1954 195

Sir,

Subject:- Petition for Mercy - President's refusal to interfere - Communicated - Condemned Prisoner No. 7137 Kavudiyan Muthu - Central Jail, Cannanore - Receipt of - Acknowledged.

Ref :- G.O.R. No. 4355 Home Department dated 29-12-53.

I hereby acknowledge the receipt of the communication cited above.

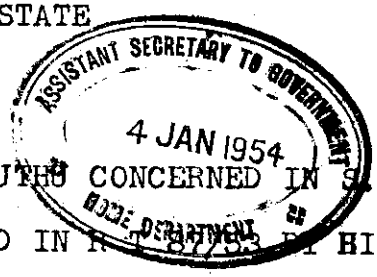
Superintendent.

Copy submitted to the Inspector-General of Prisons, Madras.

EXPRESS STATE

MADRAS HOME

MADRAS



CONDEMNED PRISONER 7137 KAVUDIYAN MUTHU CONCERNED IN S.C 10/53 SESSIONS SOUTH KANARA AND FONFIRMED IN R.T. 87/53 BY HIGH COURT EXECUTED SECOND JANUARY. HE PRESIDENT OF INDIA DECLINED IN G.O.R. 4355 HOME DATED TWENTYNITH DECEMBER.

CENTRAL JAIL

No.R. 10 /53 Dated 2-12-53.

Post copy submitted to the Secretary to Government Home Department, Madras with a nominal roll of the prisoner.

Central Jail, Cannanore. Superintendent.

Copy submitted to the Inspector-General of Prisons. Madras with a nominal roll.

Mvr/2-12.

FORM No. 52. (*See* Rule 879, Part I of Vol. II. M.P. and R.M.) Judl. (Jail II)-13. 19,000—11—6—52.

45

NOMINAL ROLL OF MALE* CONVICT No. 1137+A

Name Kaverdiyan Muthu S/o Kaverdiyan Ambu

Residence (Village, Taluk and District). Vadagam Village, Kasaragod, S. Kanara

Caste Hindu Present age 27 years, Occupation Manager

Section and Code under which imprisoned. Sec. 302 I.P.C.

Original sentence of order and date. Death 19.7.53

Adjudicating Court and Calendar number of case. Sessions Judge S. Kanara in S.C. 10/53

Unexpired term of sentence after deducting remission earned. Executed on 2/1/54 year (s) Month (s) Day (s).

Present state of health and fitness to undertake a journey † Ft

Result of appeal (if any) Appeal rejected in CA 462/53 and RT. 87/53 dt/21-9-53 by Hon'ble Supreme Court of India vide their Judgment dated 21-9-53 received in Memorandum No. 18/8623 dt 1K/53-3 dt 3-12-53 from the Registrar of India, Allahabad

Conduct in Jail

Personal and descriptive marks§ 1) Mole and Scar on left side of Neck 2" below left ear lobe 2) Mole and Scar on left side of Neck 1" above left Angle of Jaw.

Remarks Well-conducted, Disciplined, Quiet

---

* Strike out and add " Female " when necessary.

† After the prisoner's number, add his class A or B, according as he is classed as a Casual (and whether Star) or Habitual, respectively, and after the letter, add the number of previous convictions, thus—No. 3742 B-2.

‡ When a journey is about to be undertaken by a prisoner, the roll is to be signed by the Medical Officer.

§ Personal and descriptive marks are to be given when (1) rolls accompany prisoners transferred (2) police assistance is sought for the recapture of an escaped prisoner (Rule 549, Part I of Vol. II, M, P and R, M.)

Banaras Central JAIL,
2-1-1954

Superintendent,

III

Home Department.

PRESS NOTE.

Kavudiyan Muthu of Bedadka village in Kasaragod Taluk, who, on 11.3.53, stabbed and murdered his wife, and was sentenced to death by the Sessions Judge, South Kanara, was executed on 2nd January 1954, in the Central Jail, Cannanore.

29.12.53.

29.12.53

59

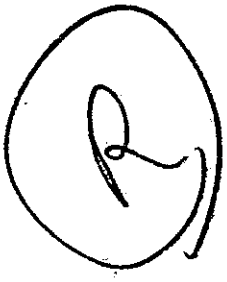
GOVERNMENT OF MADRAS
PUBLIC (INFORMATION AND PUBLICITY) DEPARTMENT

PRESS NOTE NO.2, DATED 6TH JANUARY 1954

Kavudiyan Muthu of Bedadka village in Kasargod Taluk, who, on 11-3-1953, stabbed and murdered his wife, and was sentenced to death by the Sessions Judge, South Kanara, was executed on 2nd January 1954, in the Central Jail, Cannanore.

ISSUED BY:-
The Director of Information and Publicity,
Government of Madras.

VMT/6-1



Printed for Court.

Material Object No. 1—Sent.

HIGH COURT.

REFERRED TRIAL

No. 87 of 1953.

Criminal Appeal No. 462 of 1953.

Kavudiyan Muthu,

Accused.

SOUTH KANARA DIVISION.

Records

in

S.C. No. 10 of 1953.

To be heard on

PRINTED AT THE GOVERNMENT PRESS, MADRAS.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 10 *of* 1953.

Serial No.	Description of paper.	Page
1.	The charge	3
2.	Plea of the accused	ib
3.	Record of oral evidence for prosecution—	
	1. Srimathi Mani *alias* Choyichi	3
	2. Ambukka	7
	3. Dr. (Kumari) R. Chacko. Woman Assistant Surgeon, Government Hospital, Kasaragode	9
	4. Raman Navar	11
	5. Puttaraja, Patel ..	13
	6. U. Lingappaya, Stationary Sub-Magistrate, Kasaragode (now Deputy Tahsildar)	15
	7. J D'Souza, Head constable No. 335 ..	16
	8. K Batiappa, Sub-Inspector of Police.	17
4.	Examination of accused—	
	(a) Before the Committing Magistrate of the sole accused—Exhibit P-8	19
	(b) Before the Sessions Court of the sole accused	25
	(c) Judge's notes.	
5.	Record of oral evidence for defence.—Nil.	
6.	Exhibits:	
	(a) Documents used in evidence—	
	For prosecution.	
	P-1 Statement of P.W. 2 recorded by the Patel P.W. 5	27
	P-2 Post-mortem certificate issued by the doctor P.W. 3	28

Serial No.	Description of paper.	Page
	P-3 Statement of the deceased recorded by the Patel P.W. 5	29
	P-4 Report of the Patel P.W. 5 sent to the Police Station Kasaragode ..	ib
	P-5 Dying declaration of the deceased recorded by the Magistrate, P.W. 6 at the hospital	30
	P-6 Statement of the deceased recorded by Head constable, P.W. 7 at the hospital ..	31
	P-7 Eye sketch of the scene of offence (enclosed herewith) 1	N.P.
	For defence.	
	D-1 Deposition of P.W. 4 in the Committal Court	32
(b)	Material objects produced in evidence — List of material objects and order of the Judge	34
	A folding knife (dismantled)	
	Opinion of Assessors.	
8.	Judgment.	
9.	Other miscellaneous papers.	
10.	Appeal petition	

IN THE COURT OF SESSION, SOUTH KANARA

Sessions Case No. 10 of 1953

I, Sri P. T. Raman Nayar I.C.S. Sessions Judge of South Kanara, hereby charge you Kavudiyan Muthu. son of Ambu, Bedadka village, Kasaragode taluk, as follows :—

That you, on or about the 11th day of March 1953, at about 8-a.m. at Bedadka, did commit murder by intentionally causing the death of your wife Chirudai by stabbing her with a knife, and thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within my cognizance.

And, I hereby direct that you be tried before me on the said charge

Dated, this 6th day of July 1953

(Signed) P. T. RAMAN NAYAR

6—7—1953 *Sessions Judge.*

Plea of the accused.

Plea of the accused.—Not guilty

P.W. 1.

(6—7—1953.)

IN THE COURT OF SESSION, SOUTH KANARA

Sessions Case No. 10 of 1953.

Deposition of first witness for prosecution

Name—Srimathi Mani alias Chovichi. Father's name—Ambu Village—Bedadka. Caste—Barber. Taluk—Kasaragod. Calling—Household duties. Religion—Hinduism. Age—58 years.

Solemnly affirmed in accordance with the provision of Act X of 1873 on the 6th day of July 1953 by Sri B. M. Shetti, Translator, District Court.

I am the elder sister of the accused. The accused and myself and my son Ambuka were living together in the same house in the village of Bedadka. We are barbers by caste and that is the profession of the accused and myself.

The accused and the deceased were married in Edavam 1952 and the accused brought his wife home soon after. We were all living together. But the accused and his wife used to quarrel and the accused used to beat and scold his wife. So about 14 months

before the occurrence the deceased went back to her parents in the village of Kolathur about 3 or 4 miles away. Then, at the instance of the accused, myself and my son went to Kolathur and brought the deceased back on assurances of good treatment. That was on the day previous to the occurrence.

The occurrence took place on the 27th of Kumbhom last (11—3—1953). That morning the accused sent me to our landlord Raman Nair's house about 30 marus away, across a stream in order to get a special kind of tender coconuts for medicinal purposes. A little before I left the house my son had gone out for work. When I left the deceased was sitting on the veranda cutting vegetables on a chiruva. The accused was sitting on the verandah near to her. When I reached Raman Nair's house, I heard the deceased cry out that she was being killed. I ran back to the house. As I was approching the house I saw the accused stab the deceased in the belly with a penknife. They were inside the house. The accused was holding the deceased by her throat pushed against the wall and was stabbing her. He stabbed her only once. Then he came out and ran away eastwards carrying the blood-stained knife in his hands. Just then the landlord Raman Nair and a little later my son came there. After receiving the stab the deceased came out and fell down in the verandah. I helped her up and supported her leaning against me in a sitting posture. We asked her what had happened. She told me that the accused had asked her to spread the mat inside the house and she had refused to and that thereupon he had stabbed her. Then Raman Nair and my son went and fetched the patel who questioned the deceased and took down her statement to the effect that the accused had stabbed her. Before that the deceased's father had arrived and to him also she made the same statement. The patel sent the deceased to the Kasaragod hospital. The next morning I heard she was dead. On that day (28th Kumbhom) the Police questioned me.

Cross-examined.—I know Chindan Nair, the elder brother of my landlord Raman Nair. Chindan Nair has not come to Court today. Only Raman Nair has. Now we have moved to another house. It is not on Chindan Nair's land. On the day of the occurrence I moved to Chindan Nair's house and stayed there for two or three months. After what had happened, my son and I were afraid to stay alone in our house. We were afraid the accused might come back and do us harm. I am now working in Chindan Nair's house. On the day of the occurrence I saw Chindan Nair in his house. The Police came and were seated in Chindan Nair's house. But I was not questioned there, but at the scene of offence. The

used and the deceased used to quarrel as a result of the accused holding and beating the deceased if she did not have food ready for him when he came home from work. About three months after their marriage, the accused and deceased began cooking separately from us though living in the same house. I used to ask the accused not to beat and scold his wife. While we had a common mess the deceased had no complaints. It is not true that she used to complain that I was not giving her enough food. In fact when I fetched her back she made it a condition that we should have a common mess. On the night previous to the occurrence the accused and deceased were sleeping together. I had reached Raman Nair's house and was sitting on the verandah when I heard the deceased's cries. It was on hearing the cries that I ran back to my house. It is not true that I told the Police that I only saw the accused run away as I approached the house. I told them that I saw him stab the deceased. I saw the accused press the deceased against the wall inside the house holding her by her throat with his left hand and then stab her in the belly with his right. When the accused came out of the house the deceased followed him into the verandah and collapsed there. There was no blood inside the house. What bleeding there was before the deceased rushed out was absorbed by her clothes. In the verandah where she sat down there was blood.

When I left for Raman Nair's house the deceased was seated in the verandah with one foot on the wooden base of the *Chiruva* cutting vegetables against the blade. When I returned on hearing the deceased's carries the *Chiruva*, *kathi* and the vegetables and the sliced vegetables were on the verandah.

The wood base of the *Chiruva* *kathi* was about half a cubit long. The blade was curved, was about half a cubit long. The cutting edge of the blade was horizontal and facing upwards. The tip was again curved and pointing upwards. There was no blood on the *Chiruva* or in the verandah when I got there. When the patel came the chiruva as also the vegetables were there in the verandah just as the deceased had left them. So also when the Police came the next day. I supported the deceased in a semi-recumbent position. All that time her injury was bleeding. The patel came soon after the deceased's father arrived. My son and Raman Nair went together to report to the patel.

On the morning of the occurrence the four of us, the accused, the deceased, myself and my son had tea together. The accused and the deceased were then on cordial terms.

The nearest house to our is that of our landlord Raman Nair There is one Pakkira Nair's house some distance away. It is inside the forest and is not visible from our house.

When he had work the accused used to go out for work early in the morning. He would go out for work about ten days and then stay at home for about ten days without going out for work. When we had tea that morning the accused said that he was going to Kolathur for work; but he did not go. He sent me to fetch the tender coconut saying that he wanted to take it with him when he went to Kolathur for the purpose of making the medicine. It is not true to say that the accused was not in the house and had just left for Kolathur when the deceased suffered the injury. He was in the house and he inflicted the injury. It is false to say that the accused came running on hearing the cries and that I told him that the deceased had fallen on the *Chiruva kathi* and suffered the injury. It is false to say that at that time Chindan Nair came there and asked me to put the blame on the accused. Chindan Nair did not come there at all. The deceased was not suffering from fits.

One Kunhambu Nair, the nephew of our landlord came to the house along with the patel. To the patel the deceased only said that her husband had stabbed her. She did not mention about her refusal to spread the mat. Nor did I mention that to the patel

Our landlord had not asked the accused at any time to vacate the house.

I do not know of the excise people coming to Chindan Nair's house and seizing tobacco last year. Chindan Nair's house is near ours and if there had been any such incident I would have heard of it.

It is not true to say that I was ill-treating the deceased and did not like her to stay in the house. On the contrary she was very fond of me and it was only because I asked her to come that she came back from her parents' house.

The deceased used to go to work in Chindan Nair's house. It is not true to say that she was going against the accused's wishes.

To Court:—From what the deceased told me I understood that the accused had called her in for sexual intercourse and that being day time she had refused and that is why the accused stabbed her.

Cross-examined.—The deceased was conscious throughout right up to the time she was removed to hospital

Re-examined.—Nil.

(Left thumb-impression of) Mani alias Choyichi.

Taken down by me in open Court, and interpreted to the witness in Malayalam, and acknowledged by her to be correct.

(Signed) P. T. RAMAN NAYAR
Sessions Judge.

Re-called and cross-examined with permission.—The *Churuva* the deceased was using was not a mettukathi of the kind shown to me now. It was just an ordinary bill-hook, more or less, with a handle and not a flat wooden case. It is held between the toes with the blade upwards and used as a vegetable cutter. By itself it cannot stand with the blade pointing upwards. The moment it is released it would fall flat.

Re-examined.—Nil.

(Left thumb-impression of) Mani alias Choyichi.

Taken down by me in open Court, and interpreted to the witness in Malayalam and acknowledged by her to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

P.W. 2.

6—7—1953.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 10 of 1953

Deposition of second witness for prosecution.

Name—Sri Ambukka. Father's name—Kannan. Village—Bedadka. Caste—Barber. Taluk—Kasaragod. Calling—Barber. Religion—Hinduism. Age—24 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 6th day of July 1953 by R. M Shetti, Translator, District Court.

I am P.W. 1's son. Myself, P.W. 1 and the accused and his wife were living together in Bedadka. About 1½ months before the occurence the deceased had quarrelled with the accused and gone to her parent's house in Kolathur. On the day before the occurrence P.W. 1 and I went and fetched her back.

The occurence took place on the 27th of Kumbhom last. That morning after tea I left the house for Kolathur for work. P.W. 1 and the accused and the deceased were in the house then. I had not proceeded very far—I had just crossed the stream north of our house and was going westwards up the hill when I heard loud cries

from the house. I ran back to the house. As I was coming down the hill I saw the accused run away eastwards from the house and go up the hill. I noticed nothing with him. When I reached the house I found the deceased seated in the verandah leaning against my mother. She had a bleeding injury on her belly. My landlord Raman Nair was already there. When we asked them what had happened the deceased told us that her husband had stabbed her. P.W. 1 also told us that the accused had stabbed the deceased and run away. Then Raman Nair and I went to the patel about 2 or 3 miles away and told him what had happened. The patel recorded the statement Exhibit P-1 from me. Then he read it over to me in Malayalam and took my thum-impression to it. Then the patel came with us to our house and saw the deceased. The deceased's father had come by then. The patel questioned the deceased and recorded a statement from her. Then he sent her to the Kasaragod hospital. Next day I heard that the deceased had died and on that day the Police questioned me.

There was no blood at all inside the house. Even in the verandah there was only very little blood where the deceased was seated. Most of the blood was absorbed by her clothes. The little blood that fell on the verandah was licked by our pup.

Cross-examined.—I do not know how much a furlong is but I might have been about 2 furlongs from my house when I heard the cries. I was within earshot. I might have told the Police, I was about two furlongs away. Chindan Nair was not in the house when I reached there. He did not come to our house at all that day. It might be that in my statement, Exhibit P-1. I did not mention about having seen the accused run away. On its being read over to me, I see that I have not. That was an omission. In my confusion and excitement I must have forgotten to say so. Raman Nair was present when I made the statement, Exhibit P-1. When I reached the house I saw some vegetables (brinjals and beans) and some sliced vegetables lying on the verandah. I did not notice any *chiruvakathi* there. Nor when I returned from the patel's house. After the occurrence, for two or three months, P.W. 1 and I were staying in Chindan Nair's house. Chindan Nair has not come to Court to-day. The Police questioned me at the scene of offence—not in Chindan Nair's house. Chindan Nair might have been among the many persons there.

Eight days after the occurrence when myself and Kunnamon Nair were returning home from Koppalangaya we saw the accused sleeping in the verandah of a ruined hut above Chindan Nair's house. It was late in the night. We went and fetched Chindan

Nair and the three of us went and caught the accused. The accused took out a knife and threatened to stab us. We beat him with sticks and with our hands and captured him and bound him hand and foot and sent word to the patel who came and took charge of him and sent him with us to the Kasaragod Police station where we produced him along with the knife. The accused complained to the Police that we had beaten him and inflicted injuries on him and bound him with ropes.

It is false to say that the deceased sustained the injuries by falling on a chiruvakathi and that P.W. 1 and I have been set up by Chinnan Nair to give false evidence. Right up to the time she was removed to hospital, the deceased was conscious.

Re-examination.—Nil.

(Left thumb-impression of) Ambukka.

Taken down by me in open Court and interpreted to the witness in Malayalam and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

P.W. 3.

(6—7—1953.)

IN THE COURT OF SESSION, SOUTH KANARA

Sessions Case No. 10 *of* 1953.

Deposition of third witness for prosecution:

Name—Dr. Kumari R. Chacko. Father's name—Mr. P. I. Chacko. Village and taluk—Kasaragod. Caste—Christian. Calling—Woman Assistant Surgeon. Religion—Syrian Christian. Age —41 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 6th day of July 1953 by Sri B. M. Shetty, Translator, District Court.

I am the Woman Assistant Surgeon, Government Hospital, Kasaragod. The deceased was brought to the hospital at 9-30 p.m. on 11—3—1953. I examined her and found on her two injuries :—

1. A transverse incised wound 10 inches long just half inch below the umbilicus extending from the right side of the abdomen 5 inches lateral to the middle line straight to the left side 5 inches from the middle line. The transverse colon, stomach and small intestines were protruding through the wound.

2. An abrasion 2 inch by ¼ inch on the medial aspect of the right toe.

Injury No. 1 must have been caused by a stab or cut with a sharp instrument such as a knife. A stab with a sharp pointed penknife followed by a tear with penknife across the abdomen with force could have caused it. A cut with a big heavy knife could also have caused it.

Injury No. 2 must have been caused by contact with some rough surface.

The deceased told me that injury No. 1 had been inflicted with a knife at 8 a.m. on 11—3—1953. The injury would have been caused at the time and in the manner alleged

The deceased's condition was grave and I sent intimation to the Police and the Magistrate.

The wound was sutured and the deceased was given the best treatment available but she died at 1 a.m. on 12—3—1953. I did an autopsy on her body on the afternoon of 12—3—1953 and found the injuries and other conditions described in my certificate, Exhibit P-2. I found that the injury in the abdomen had cut the small intestines causing a transverse penetrating incised wound 1 inch long, ½ inch broad just above the messentric attachment. It had cut the small intestines also at two other places causing injuries each ¾ inch by ¼ inch. The greater omentum was torn to a length 3 inches from its attachment to the transverse colon. From these features I think the injury was more probably caused by a penknife, first piercing the abdominal wall and then being pulled across cutting through the wall for ten inches. If a big heavy knife had been used it would probably have cut right through the large and small intestines instead of merely tearing the small intestines and the omentum.

Death was due to shock and hæmorrhage resulting from the injury which was a necessarily fatal injury

C.

Cross-examination.—I noticed no marks of violence on the deceased's neck or arm. If the stab had been inflicted on the deceased while both she and the assailant were standing I would expect an oblique and not a transverse injury. From the direction of the injury it looks as if the deceased was lying on her back and the assailant was at her flank and caused the injury. It might have been from either side. I have noted the injury as extending from the right to the left but that is no indication of how it was inflicted. It might as well have been from the left to the right. I might as well have described the injury as extending from left to right.

The deceased had lost a lot of blood by the time she reached hospital. There was about 4 oz. of blood in the abdominal cavity. The deceased's condition was bad. She was conscious but was vomiting and sweating and her pulse was thready and feeble. When I questioned her she was able to speak just a little and say that the injury was caused with a knife. She was unable to answer any further questions. When the Magistrate first came I was suturing the deceased's abdomen. She was unable to talk then. The Magistrate came again later on but I was not in the hospital then. I left by about 11-30 p.m.

As I have said the injury was probably caused by first a stab with the point of the knife and then the knife being drawn across the abdomen right through the wall. Just a stab could not have caused the injury.

To Court.—I know a *cheruva* or *mettukathi* used to slice vegetables. I think it impossible that the injury should have been caused by the deceased falling over a mettukathi.

Cross-examination.—Nil.

(Signed) R. Chacko.
6—7—1953

Taken down by me in open Court and read over to the witness and acknowledged by her to be correct

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

P.W. 4.

(6—7—1953.)

IN THE COURT OF SESSION, SOUTH KANARA

Sessions Case No. 10 *of* 1953.

Deposition of fourth witness for prosecution.

Name—Sri Raman Nair. Father's name—Kunari. Village—Bedadka. Taluk—Kasaragod. Caste—Nair. Calling—Agriculturist. Religion—Hinduism. Age—47 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 6th day of July 1953 by Sri B. M. Shetty Translator District Court.

I live in Bedadka. I know the accused and the deceased and P.Ws. 1 and 2. They were living about 50 yards south of my house in a house belonging to me

The occurrence took place about two months ago. I was working in the garden attached to my house when at about 8 a.m. I heard cries proceeding from P.W. 1's house. I ran there. I found the deceased in the veranda of the house leaning against P.W. 1 who was supporting her. Her abdomen was torn right across with a bleeding injury. I did not see any one go from the house. But I saw P.W. 1 run to the house and followed her some distance behind. I asked P.W. 1 and the deceased what had happened. P.W. 1 told me that the accused had stabbed the deceased and run away and the deceased also told me that her husband had stabbed her. By then P.W. 2 came and to him also the deceased repeated that her husband had stabbed her. Then P.W. 2 and I went to the Patel and told him what had happened. The Patel recorded a statement from P.W. 2 and then came with us to the scene where he questioned the deceased and recorded a statement from her and then sent her to Kasargod hospital. The next day the Police questioned me.

On that day I saw the accused. I saw him running from his house eastwards as I was running to the house on nearing the cries. When I said earlier that I did not see any one run from the house I did not understand the question properly. When I was asked whether anyone was running from the house I thought that it was my house that was being referred to.

Cross-examination.—It was not from P.W. 1 alone that I learned that the accused stabbed the deceased. The deceased also said so. I did state in the lower Court that the deceased also told me that her husband had stabbed her. (It is not in his deposition, Exhibit D-1.) P.W. 2 came there soon after I reached there. He came just as I was leaving for the Patel's house. He came and stood in the yard by the side of the veranda and spoke to P.W. 1 and the deceased. It was after that that we went to the Patel's house. I did not tell the Patel that I saw the accused running away from the house.

The accused was not paying me any rent. He and his people were occupying the house free of rent. It is not usual in our parts to collect rent for such small huts. At no time did I ask the accused to vacate.

My brother Chindan Nair lives about a furlong north of my house. So far as I know his house was not searched by the Excise authorities nor was any tobacco seized from him.

I did not notice a *mettukathi* or a *chiruvakathi* in the veranda of the accused's house when I went there. After returning there with the Patel I was there till the deceased was removed to hospital.

P.W. 1 comes to my house for cooly work. My barber is P.W. 2. The accused rarely does barber's work. He mostly does cooly work.

There was no ill-feeling or enmity of any kind between me and the accused.

I reached the scene soon after P.W. 1. I was about 10 or 20 marus behind her. The Police questioned me either the next day or the next. I am not sure. The Police questioned me and P.Ws. 1 and 2 on the same day at the scene of offence. Chindan Nair was not then there.

I did see the accused run away and it is not true that I got this information only from P.W. 1.

Re-examination.—Nil.

(Signed in Malayalam character)———

Taken down by me in open Court and interpreted to the witness in Malayalam and acknowledged by him to be correct:

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

P.W. 5.

(6—*1*—1953.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 10 *of* 1953.

Deposition of fifth witness for prosecution.

Name—Sri Puttaraja. Father's name—Krishnaraja. Village —Bedadka. Taluk—Kasargod. Caste—Raja Kshatriya. Calling—Potail of Bedadka village. Religion—Hinduism. Age—33 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 6th day of July 1953 by Sri B. M. Shetty, Translator, District Court.

I am the Patel of Bedadka. On 11—3—1953 at about 10 a.m. P.Ws. 2 and 4 came and told me that the accused had stabbed the deceased and run away. I recorded the statement Exhibit P-1 from P.W. 2 and read it over to him in Malayalam and took his thumb-impression to it after he admitted it to be correct. Then I went with P.Ws. 2 and 4 to the scene of offence which is 2½ miles from my house. I found the deceased in the veranda of the house sitting leaning against P.W. 1. There was a bleeding injury in her belly. I questioned her and recorded from her the statement Exhibit P-3

which I explained to her in Malayalam. I took her thumb-impression to it after she admitted it to be correct. Then I sent Exhibits P-1 and P-3 with my covering report Exhibit P-4 to the Kasargod Police station with copies to the Magistrate. After recording her statement I sent the deceased in an improvised stretcher to the Kasaragod hospital which is 14 miles away.

The Police came to the village on the 12th. They searched for the accused but could not find him. Eight days later, one night P.W. 2 and Chindan Nair came and told me that they had caught the accused and kept him bound hand and foot. I went and saw the accused bound hand and foot in a ruined hut near Chindan Nair's house. I sent the accused to the Kasargod Police station with my Ugrani and P.W. 2 and Chindan Nair.

Cross-examination.—In my report Exhibit P-4 I have not answered the questions on the reverse of the form. I sent Exhibit P-4 at 2-30 p.m. It was just before noon that I reached the scene. In Exhibit P-3 I recorded everything that the deceased told me. So also in Exhibit P-1 I recorded all that P.W. 2 told me.

There was a little blood in the veranda where the deceased was lying. I was there till 12-30 p.m. I did not see any *mettukathi* or *chiruva* or any vegetables in the veranda. The deceased was quite conscious when I recorded Exhibit P-3 from her. After making that statement she said that she was feeling too weak to say anything more. On my way to the scene I proceeded by Chindan Nair's house and he came with me to the scene. He was present when I recorded Exhibit P-3 from the deceased.

When I reached there the deceased was in a weak condition but was able to speak.

Re-examination.—Nil.

(Signed) K. Puttaraja,
Patel.

6—7—1953.

Taken down by me in open Court and interpreted to the witness in Kannada and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAK,
Sessions Judge.

(True copy)

P.W. 6.

(7—7—1953.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 10 *of* 1953.

Deposition of sixth witness for prosecution.

Name—Sri Lingappaiya. Father's name—Nagappaiya. Village and taluk—Mangalore. Caste—Golla. Calling—Deputy Tahsildar. Religion—Hinduism. Age—49 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 7th day of July, 1953 by Sri B. M. Shetty, Translator, District Court.

In March last I was the Stationary Sub-Magistrate, Kasargod. On 11—3—1953 at about 10 p.m. I got intimation from the Medical Officer of the Government Hospital about the admission of the deceased with injuries in a precarious condition. I proceeded to the hospital. At that time the deceased's injuries were being attended to by the doctor. I waited until the bandaging was over and the deceased was removed to the ward from the operation theatre. Then at about 11-30 p.m. I questioned the deceased. The deceased was conscious and was able to speak, though with difficulty. I recorded her statement. Exhibit P-5 is that statement. She spoke in Malayalam, a language I know. I questioned her in Malayalam. I took down her statement in Kanarese. I then read over Exhibit P-5 to the deceased and explained it to her in Malayalam. She admitted it to be correct and then I took her thumb-impression to it.

Cross-examination.—The deceased was brought to the ward at about 11-15 p.m. She was then very weak and I did not want to trouble her just then. Her speech was low and not audible. I waited for sometime to allow her to regain her strength. By 11-30 p.m. she was able to speak clearly though with difficulty and I proceeded to record her statement. I can talk Malayalam quite well but I cannot read or write it. Two or three relatives of the deceased were sitting by her side when I recorded the statement. Exhibit P-5 is a complete record of the questions I put to the deceased and the answers she gave. There were no Policemen inside the ward but there were Policemen in the veranda.

Re-examination.—Nil.

(Signed) U. Lingappaya.
7—7—1953.

Taken down by me in open Court and read over to the witness and acknowledged by him to be correct.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

P.W. 7.

(7—7—1953.)

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 10 of 1953.

Deposition of seventh witness for prosecution.

Name—Sri J. D'Souza. Father's name—F D'Souza. Village —P.S. Kasaragod. Taluk—Kasaragod. Caste—Roman Catholic. Calling—Head constable No. 335. Religion—Christianity. Age—39 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 7th day of July 1953 by Sri B. M. Shetty, Translator, District Munsif

I am a Head constable attached to the Kasaragod station. I got information of the admission of the deceased into the Kasaragod Hospital at 10-10 p.m. on 11—3—1953. I went to the hospital. The Stationary Sub-Magistrate P.W. 6 was already there. I waited until he had recorded the statement of the deceased and then I questioned her and recorded from her the statement, Exhibit P-6. She spoke in Malayalam. I can speak Malayalam though I cannot read or write the language. I questioned the deceased in Malayalam and recorded her statement in Kanarese. I read over the statement Exhibit P-6 to the deceased and explained it to her in Malayalam and after she admitted it to be correct I took her thumb-impression to it. Then I returned to the station at 11-50 p.m. At 11-55 p.m. while I was preparing the first information report, I received the Patel's report Exhibit P-4 enclosing Exhibits P-1 and P-3. I embodied those also in the first information report and registered a case under Section 326, Indian Penal Code. Then I sent the first information report to the Sub-Inspector.

On 12—3—1953 at 8-35 a.m. I got intimation from the hospital of the deceased's death. I then converted the charge to one under Section 302, Indian Penal Code, and sent express reports to my superiors.

The distance from Kasaragod to Bedadka is 26 miles. There is bus for 9 miles, the rest of the distance has to be done by foot or by boat.

Cross-examination.—I registered the case at 11-50 p.m. on 11—3—1953. I recorded Exhibit P-6 only after P.W.-6 had recorded the deceased's statement. It must have taken me about half an hour to record Exhibit P-6. The hospital is about 1½ furlongs from the Police station.

Re-examination.—Nil.

(Signed) J. D'Souza.
7—7—1953

Taken down by me in open Court and read over to the witness in Kannada and acknowledged by him to be correct.

(Signed) R. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

P. W. 8.

7—7—1953.)

IN THE COURT OF SESSION, SOUTH KANARA

Sessions Case No. 10 *of* 1953.

Deposition of eighth witness for prosecution.

Name—Sri K. Batiappa. Father's name—K. Ambadv. Village and taluk—Kasaragod. Caste—Theeva. Calling—Sub-Inspector of Police. Religion—Hinduism. Age—30 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 7th day of July 1953 by Sri B. M. Shetty Translator, District Court.

In March last I was Station-house Officer, Kasaragod. On 12th March 1953 at 8 a.m. at Kasaragod when I was on my way back to the station from Adoor village, I got the first information report and express report in this case. I proceeded to the hospital and held an inquest from 10-30 a.m. to 2 p.m. At the inquest I examined the doctor and the father of the deceased. The same day I proceeded

to Bedadka and reached there late in the night. I continued the investigation on 13—3—1953 and questioned P.Ws. 1, 2, 4 and 5 at the scene of offence. I inspected the scene and scraped some earth from the veranda where there appeared to be blood marks but the Chemical Examiner found no blood in the earth. I prepared a plan of the locality. Exhibit P-7 is that plan.

The accused's house faces north and is on the northern slope of the hill. The entrance to the house is only from the north. One hundred and fifty yards to the north is the house of P.W. 4 which is on the southern slope of another hill—that is the distance along the ground. As the crow flies it will be less. Between the two houses is a valley through which a stream runs from east to west.

The only house that can be seen from the accused's house or which is within earshot is P.W. 4's. To the east and south of the accused's house is the hill and after a little distance there is forest.

From 12—3—1953 onwards I was on the lookout for the accused. I had sent my Head constable in advance to the village to arrest him. I searched for the accused in the village and the neighbourhood but could not find him. I asked the villagers to help me to trace him.

I deputed men for the purpose. On 19—3—1953 one Chindan Nair along with the Ugrani of the village and P.W. 2 and others produced the accused before me at the station and I arrested him. Along with the accused they produced the knife M.O. 1 which I seized.

On 26—3—1953 I laid the charge-sheet.

Cross-examination.—P.W. 1 told me that when she was about 30 yards from her house she saw the accused leaving the house and going away towards the east through the hill slope. She did not tell me that she had seen the accused stab the deceased.

There were no blood marks inside the house.

When I arrested the accused he had injuries on his person and he complained to me that the five persons who had caught him, Chindan Nair, Kunhambu Nair, Gopalan Nair, P.W. 2 and Pakkira had beaten him. I registered a case under Section 325, Indian Penal Code, against these persons and subsequently referred it as a mistake of fact.

[illegible] Chindan Nair produced M.O. 1. [illegible]

I did not find any vegetables in the veranda. Inside the house I found an ordinary *chiruvakathi* used for cutting vegetables. It had a wooden handle but no stand. It has to be held in position by the foot. I did not seize it since it did not seem to me to be connected with the offence.

Re-examination.—Chindan Nair was one of the persons whose help I sought for tracing the accused. I had instructed the villagers including Chindan Nair, the Patel and the ugrani that if the accused was found he should be brought to the station.

(Signed) K. Batiappa.
7—7—1953 *Sub-Inspector.*

Taken down by me in open Court and read over to the witness in Kannada and acknowledged by him to be correct.

(Signed) P. T RAMAN NAYAR
Sessions Judge.

(True copy)

Exhibit P-8.

(Statement of the sole accused.)

IN THE COURT OF THE STATIONARY SUB-MAGISTRATE, KASARAGOD.

Preliminary Register Case No. 3 *of* 1953

Statement of the sole accused.

Name—Kavudian Muthu. Father's name—Kavudian Ambu. Village—Bedadka. Taluk—Kasaragod. Caste—Kavudian. Calling—Cooly. Religion—Hinduism. Age—27 years.

Date, 22—5—1953.

Q.—Have you got defence witnesses to be examined in this Court?

A.—No.

(Signed) Kavudian Muthu

Certified that, etc.

(Signed) H. RAMESH RAO
22—5—1953. *Stationary Sub-Magistrate.*

(25—5—1953.)

Q.—You have heard the evidence of P.Ws. 1 to 12. It is seen from the evidence of P.Ws. 1 to 5, that about 8-9 months before the occurrence, i.e., 11—3—1953, you married the deceased Chirudai, i.e., the daughter of P.Ws. 1 and 2, that though yourself, your

elder sister P.W. 3 and nephew, P.W. 4 together were residing in a tenant's house as the tenant of P.W. 5 near P.W. 5's house. You lived with your wife deceased Chirudai after marriage in the same house, cooking separately, but often you were quarrelling between yourself and that you were abusing and beating her. What do you say regarding this?

A.—After I married Chirudai (we) lived together for one week. As Chirudai complained to me that P.W. 3 was not properly serving the food to her, we lived cooking separately. I was neither beating or abusing Chirudai. We were on good terms.

Q. It is seen from the evidence of P.Ws. 1 to 5, that the deceased on account of your trouble went to her father's, i.e., P.W. 1's house at Kolthur about 1½ months before the occurrence from your house at Charla in Bedadka, that when you asked the deceased to come to your house, as the deceased did not come, P.Ws. 3 and 4 went to P.W. 1's house as per your instructions on the previous day of the occurrence, and brought the deceased to your house assuring her that all of you would live together. What do you say regarding this?

A.—One week prior to the occurrence, P.W. 1 had come to our house. I and P.W. 3 were not on good terms. (He) came to settle it. Chirudai did not go 1½ months before the occurrence. On the next day, 21st of Kumba month, of the day of P.W. 1's arrival (i.e., Wednesday 20th of Kumba month) I and Chirudai went to P.W. 1's house. We stayed there for five days. We came back on the previous day of the occurrence.

Q.—It is seen from the evidence of P.Ws. 3 and 4, that after you all took tea together in the morning of the day of occurrence, P.W. 4 started to go to Matlagott for his work, that P.W. 3 went to P.W. 5's house to bring two tender coconuts of a varietv called '*Kendali*' as required by you (to remove poison from your stomach), that thus you and the deceased only were in the house and that at that time the deceased was mincing vegetables, i.e., brinjals for curry. What do you say regarding this?

A.—P.W. 4 did not go to Matlangotu. He was there only. After tea I went to Kolthur. That was as required by P.W. 3. When I started P.W. 3 asked my wife to mince the vegetables. When I started Chirudai was mincing lentil on a 'mettukathi' (sickle). P.Ws. 3 and 4 were there only.

Q.—It is seen from the evidence of P.Ws. 3 and 4 that when P.W. 3 was in the house of P.W. 5, (she) heard the cries of the

deceased saying "I am being killed" and at once P.W. 3 went running to your house, that when went running like that (she) saw you holding firmly the neck of the deceased and stabbing with a knife, that P.W. 3 on seeing said "What kind of thing", and you on hearing that ran away carrying the knife, that when the deceased cried out, P.W. 4 might have gone about 15 marus away from the house, that P.W. 4 on hearing the cries and while running towards the house, saw you running over a hill to the east of the house, that when you ran away from the house, the knife like M.O. III which was in your hand and the clothes which you had worn, M.O. IV shirt and M.O. V mundu, were stained with blood. What do you say regarding this?

A.—This is not correct.

Q.—It is seen from the evidence of P.Ws. 3, 4 and 5, that the motive for the offence which the deceased told P.W. 3 and deposed to by P.W. 3 is stated here below, that you called the deceased inside and asked her to spread a mat and lie down, that as it was day time and as she declined to do like this, you stabbed the deceased, that P.W. 3 told this thing with P.W. 4 who came there immediately and with P.W. 5, and that when P.W. 1 also came to the said house on learning about the occurrence, the deceased told this thing to P.W. 1. It is seen from the evidence of P.Ws. 1, 2, 5 and 8 that the information about the occurrence was sent to P.W. 1 by P.W. 5 through P.W. 8. What do you say regarding this?

A.—All these are not correct. (They) say out of enmity.

Q.—It is understood from the evidence of P.W. 6, that P.W. 4 gave the statement Exhibit P-1 at P.W. 6's (house) now read over to you about the occurrence, that when P.W. 6 (potail) went from there to the scene of offence and looked, he found the deceased sitting with injuries on the stomach on the veranda of your house supported by P.W. 3 and recorded a statement Exhibit P-2 on questioning the deceased, that Exhibits P-1 (a) and P-2 (a) are the copies of the said statements, that P.W. 6 sent Exhibits P-1 and P-2 along with the report Exhibit P-3 (?) to the Police station and Exhibits P-1 (a) and P-2 (a) along with the report, Exhibit P-3 (a)(?), to this Court. What do you say regarding this?

A.—All these are not correct.

Q.—It is understood from the evidence of P.W. 7, that when the deceased was brought to the Government hospital for treatment at about 9-30 o'clock in the night of the day of occurrence, P.W. 7 doctor examined the deceased and found the injuries described in Exhibit P-4 at the stomach and sutured it that the deceased died

that very night at 1 o'clock and that on 12—3—1953 in the afternoon at 3 o'clock, when P.W. 7 did the autopsy, she found the injuries noted in Exhibit P-4 now read over to you. What do you say regarding this?

A:—I know that Chirudai was brought to the hospital. Rest I do not know anything.

Q.—P.W. 9 says that as soon as the intimation Exhibit P-5 was received from the Kasargod hospital on the night of the occurrence, P.W. 9 went to the Government hospital, recorded the statement Exhibit P-6 from the deceased and returned to the station and registered it as an first information report, Exhibit P-7. Besides he states that Exhibit P-8 is the intimation regardng the death of Chirudai and Exhibit P-9 is the first information report registered in this respect. What do you say regarding this?

A.—I do not know about this.

Q.—P.W. 11 says, that he conducted the investigation in this case, that he held an inquest over the dead body of the deceased, from 10.30 a.m. to 2 p.m. on 12—3—1953 and seized the M.Os. I and II (i.e., the cloth and blouse worn by the deceased at the time of the occurrence) found on the body of the deceased, that he prepared a yadast Exhibit P-11 and also an eye-sketch Exhibit P-10 on inspecting the scene, and that he seized also the earth from a place in the veranda where blood had fallen. What do you say regarding this?

A.—It is true that there was blood at the place where my wife had fallen. Rest (I) do not know.

Q.—It is understood from the evidence of P.Ws. 1, 4 and 11, that you were absconding after the occurrence, that on 19—3—1953 some of the villagers caught and produced you in the station and that P.W. 11 seized the articles M.Os. III to V produced at that time under a yadast Exhibits P-12. What do you say regarding this?

A.—This is not correct.

Q.—It is found from the evidence of P.W. 12 that in accordance with the report Exhibit P-13 sent by P.W. 11. M.Os. I to VI were sent to the Chemical Examiner under Exhibit P-14 and reports Exhibits P-15, P-16 and P-16 (a) were received. What do you say regarding this?

A.—I cannot say anything about this.

Q.—Have you anything to say?

A.—On the day of the occurrence, I went to Kolthur. When I proceeded one furlong my elder sister P.W. 3 called me. I shouted and asked her why. Then P.W. 3 called me to come soon. I at once went home. On going (I) found Chirudai lying

near the *'mettukathi'*. I asked P.W. 8 what the mater was. Then P.W. 3 said that while Chirudai was mincing vegetables she got fits. Then she got up pushing the *'mettukathi'* and the sive underneath it. Then (she) struck against the wall. When struck she fell on the *"mettukathi"* face downwards and was injured. As the deceased was suffering from fits, I believed it. I called Chirudai. She did not speak. She was lying unconscious. Aingoor Chindan Nair, his brother, P.W. 5 Rama Nair, his nephew Kunhambu Nair, and others came there and Chindan Nair enquired with P.W. 3. She told (him) as stated above. Then Chindan Nair said "Do not say like that. Because, is it not you and your son who fetched the (deceased) on the previous day of the occurrence and as (she) was injured to-day, there might be a case against you, i.e., that you and your son had killed (her). Therefore it should be stated that Muthu (accused) had killed (her). I will see that there is no case against you." Then Chindan Nair told my elder sister to tell Chirudai on regaining consciousness that I cut her, that if P.Ws. 1 and 2 were to come (they) should be told like that and that they (Chindan Nair and others) also would say like that. P.W. 4 and Chindan Nair went to the potail. While going Chindan Nair ordered Kunhambu Nair to bring Harijans to tie me up. I was frightened and ran away from there. Every night I was coming home. On the 4th of Meena month in the night at one o'clock Chindan Nair, Raman Nair and others caught me at my house and took me to the potail. P.W. 4 and Kunhambu Nair beat and injured my hand. As directed by the potail, I was taken to the Station that very night and produced before the Sub-Inspector.

(Signed) Kavundian Muthu.

Certified that, etc.

(Signed) H. RAMESH RAO
Stationary Sub-Magistrate.

25—5—1953.

(6—6—1953.)

Q.—You have heard the further evidence of P.W. 11 and the evidence of C.Ws. 1 and 2. C.W. 1 says that when he examined you on 19—3—1953, he found the injuries noted in Exhibit C-1 now read over and interpreted to you, that out of them injury No. 1 was serious and the rest were not serious and that those injuries could have been caused on the midnight of 18—3—1953 by beating with canes, stones and hands. At the time you were produced, the complaint Exhibit P-17 that you gave was registered as a first information report which was enquired into and you were served

with P.C.S. notice Exhibit P-18, that Exhibit P-18(a) is your acknowledgment for receipt of the notice and Exhibit P-19 is the report of P.W. 11. What do you say regarding this?

A.—It is true that there were injuries. They were caused by Aingooran Chindan Nair, his brother Rama Nair, his nephew Kunhambu Nair, Gopalan, son of Raman Nair, Charadan and prosecution witness Ambukkan who held and beat me

Q.—... N. 2 says, that on 11—3—1953 he went to the Kosargode hospital on receipt of the intimation Exhibit C-2 and recorded the dying-declaration Exhibit C-3 of the deceased, that the deceased was conscious and was able to speak when that dying-declaration was recorded. Exhibit C-3 is what is now read over and interpreted to you What do you say regarding this?

A.—I did not stab the deceased. She must have said so at the instance of any others.

Q.—Have you anything still to say?

A.—No

Q.—You have heard the charge now framed against you under Section 302 Indian Penal Code, being read over?

A.—Yes.

Q.—Do you want its copy?

A.—No.

(Signed) Kavudian Muthu

Certified that, etc.

(Signed) H. RAMESH RAO,
Stationary Sub-Magistrate

6—6—1953. (8—6—1953.)

Q.—Have you got witnesses to be examined in the Sessions Court?

A.—Yes. I will produce (them) in the said Court.

(Signed) Kavudian Muthu

Certified that, etc.

(Signed) H. RAMESH RAO,
Stationary Sub-Magistrate

8—6—1953.

Examination of the sole accused

IN THE COURT OF SESSION, SOUTH KANARA

Sessions Case No. 10 of 1953

Examination of the sole accused

Name—Kavudian Muthu. Father's name—Kavudian Ambu Village—Bedadka. Taluk—Kasaragod. Caste—Kavudian. Calling—Cooly. Religion—Hinduism. Age—27 years.

Date, 1—7—1953.

Q.—You have heard the statement Exhibit P-8 made by you in the lower court, read over to you. What do you wish to say?

A.—Exhibit P-8 is a correct record of what I stated in the lower Court. What I have said therein is the truth. I am innocent and the entire case has been engineered against me by my enemy Chindan Nair. At his instance the witnesses have given false evidence. P.W. 1 also bears me enmity because about a week after I took my wife home she began complaining that P.W. 1 was not feeding her properly. I mentioned this to my wife's father and then my wife and I began cooking separately. Because of this, P.W. 1 bears me ill-will and so she and her son P.W. 2 have given false evidence. There was no ill-feeling between me and my wife. We were on the best of terms till her death. I was never beating her—P.Ws. 1 and 2 have falsely stated that I was. She never quarrelled with me and went to her father's house. My wife and I went together and stayed in her parents' house for four days. We returned to my house on the day previous to the occrurence. The evidence of P.Ws. 1 and 2 that my wife was in her parents' house for six weeks is false.

On the day of the occurrence I left the house at about 8 a.m. for Kolathur to work for my father-in-law. When I left, the deceased was sitting in the veranda and cutting beans with a *mettukathi*. It had a big wooden base and a big blade with the point pointing upwards. The base is a flat heavy wooden base and when left on the ground the blade points upwards. P.Ws. 1 and 2 were in the veranda along with the deceased. When I had gone about a furlong P.W. 1 cried out to me to come back. When I went back I found the deceased lying unconscious in the veranda by the side of the *mettukathi*. She was unable to speak and had a bleeding injury on her belly. P.W. 1 told me that the deceased who was subject to fits had a fit and got up suddenly and hit against the wall and fell down on the *mettukathi* and suffered the injury. By then my enemy Chindan Nair and his brother P.W. 4 and others came

there. P.W. 1 gave the same account to them. Thereupon Chindan Nair told P.W. 1 that if she gave that account she and her son who had fetched the deceased from her parents' house, the previous day, would be implicated in the murder and that their only means of escape was to say that I stabbed the deceased. P.Ws. 1 and 2 agreed to do this and also to tell the deceased's parents so when they came. P.W. 1 then asked Chindan Nair what was to happen if the deceased, on regaining consciousness, told the truth. Then Chindan Nair told her that because the deceased was in a fit she would not know what had happened and that if she was told on regaining consciousness that I had stabbed her she would believe it. P.W. 1 agreed to do this. Then Chindan Nair left with P.W. 2 for the patel's house and while going he said that last year I have given information to the Excise Sub-Inspector and had his house searched and tobacco seized and that he would therefore see that I was properly caught in this case. He also directed his nephew to fetch some Harijans and catch me and bind me hand and foot. After sometime the nephew came with some Harijans and on seeing them I grew frightened and ran away and hid in a forest. I came home in the night and found that P.Ws. 1 and 2 had vacated the house and gone to stay in Chindan Nair's house. After that I was in the house and was never absconding. The Sub-Inspector never came there. Eight days later when I was sleeping in my house Chindan Nair, Ramai Nair, P.W. 2 and others came there and caught me and beat me and broke my limbs and took me to the Police station.

After leaving the house on Chindan Nair's nephew coming with the Harijans I stood a little distance away and watched. Then the deceased's parents came there and had her removed to hospital. The patel P.W. 5 did not come there at all and his evidence that he questioned the deceased there and recorded her statement is false. He is giving false evidence at the instance of Chindan Nair. P.Ws. 1 and 2 (because of their own enmity and also at the instance of Chindan Nair and to save their own skins have given false evidence, Chindan Nair is my enemy because about a year ago I gave information against him to the Excise Sub-Inspector who searched his house and seized tobacco

Q.—You have heard the evidence of P.Ws. 1, 2 and 4 that the deceased told them that you had stabbed her. The patel P.W. 5 has stated that she made a statement Exhibit P-5 to that effect. The Magistrate, P.W. 6 and the Head constable P.W. 7 have also

said that when they questioned the deceased at the hospital on the 11th night she made the statements Exhibits P-5 and P-6 saying that you had stabbed her. What do you wish to say?

A.—P.Ws. 1, 2, 4 and 5 have given false evidence. Until the deceased was removed to the hospital she was unconscious. It might be that she made the statements Exhibits P-5 and P-6—I do not know. If she did make those statements it must be because when she regained consciousness Chindan Nair and P.W. 1 and the deceased's parents told her that I had stabbed her and made her believe it.

Q.—Have you anything more to say?

A.—Nothing excepting that I am innocent.

Q.—Have you any defence witnesses?

A.—No.

(Signed in Malayalam character)

Certified that the foregoing examination was taken in my presence and hearing and the record contains a full true account of the statement made by the accused.

(Signed) P. T. RAMAN NAYAR,
Sessions Judge.

(True copy)

Exhibit P-1.

Recorded by the potail of Bedadka at about 10 (ten) o'clock time in the morning on Wednesday, dated 11—3—1953, on questioning Ambukka, son of Mani Hengsu and nephew of Kavudia Muthu, residing at Charalu of Bedadka village :—

To-day morning after tea I started and went from my house to go to Matlangotu in Kolathur village. While I went from the house my mother and uncle Muthu, uncle's wife Chirudai thus three persons were in the house. After starting from the house while I was ascending a hill (I) heard a dreadful cry from the house. At once I returned home. Then my aunt Chirudai was lying inside with stab wounds on the stomach. When (I) asked (her) what it was (she) said that my uncle called Muthu had injured her with a knife. (My) mother also told (me) like this, is what I inform through this.

Understood on being read and explained in Malayalam. (It is) correct.

This left thumb-impression of the said Ambukka

(Signed) K. Puttaraja,
Potai

11—3—1953.

Exhibit P-2

(Post-mortem certificate.)

(Original.)

No. 8 of 1953.

Regarding the body of a female, aged about 16 years, named Chirathavi. Requisition received at 11-30 a.m. on 12—3—1953 from the Sub-Inspector of Police, Kasargod, with his letter No. nil, dated 12—3—1953. Body in charge of Police constable No. 880 named Achutha.

Identification and caste marks—

1. Black mole on the right cheek.

2. Black mole just below the right eye.

The body was first seen by the undersigned at 11-30 a.m. on 12—3—1953. Its condition then was rigor mortis, present. Post-mortem commenced at 3 p.m. on 12—3—1953.

Appearances found at the post-mortem—External appearance.—Feature calm and pale. Hair black, length 16 inches, eyes closed. Teeth complete. Jaws clinched. Hands clinched and empty.

External injuries—

1. Sutured transverse wound 10 inches long just ½ inch below the umbilicus extending from the right side of the abdomen 5 inches lateral to the middle line straight to the left side to 5 inches length.

2. An abrasion ½ inch by ¼ inch on the medial aspect of the right toe.

Internal examination.—Fluid blood about 4 oz. in the peritoneal cavity.

Heart.—4 oz., normal. Right lung 10 oz., left lung 8 oz. Both normal.

Stomach.—Distended with about 10 oz. of coffee coloured fluid.

Liver.—24 oz., normal.

Spleen.—3 oz., normal.

Kidneys.—Each 4 oz., normal.

Small intestine—

1. Transverse penetrating incised wound, 1 inch long and ½ inch broad on the small intestine just about the messentric attachment through which round-worms escape.

2. Penetrating incised wound ¾ inch by ½ inch about 3 inches below on the small intestine on the same side.

3. Penetrating incised wound 1 inch by ½ inch about inches below the injury No. 2 on the opposite side. Transverse colon. The great omentum was torn about 3 inches long from its attachment to the transverse colon.

Uterus.—1 oz., empty, normal.

Brain.—40 oz., normal.

Opinion as to cause of death.—The deceased would appear to have died of shock and hæmorrhage as to the result of injuries described.

10 Kasaragod, 12—3—1953

(Signed) R. Chucko,
Woman Assistant Surgeon.

Exhibit P-3.

Recorded by the potail of Bedadka at about 12 o'clock noon on Wednesday, dated 11—3—1953 on questioning Chirudai, daughter of Mani and wife of Kavudia Muthu, residing at Charalu of Bedadka village:

This day morning at about 8 o'clock time, my husband Muthu stabbed and split my stomach with a knife and ran away. (I) do not know why (he) did so. I was milking for curry in the outer

20 verandah of the house. My husband the said Muthu called me inside the room and stabbed. I am feeling week to talk more. Heard what is read and explained in Malayalam. (It is) correct.

This left thumb-impression of the said Chirudai.

(Signed) K. Puttaraja,
11—3—1953. *Potail.*

Exhibit P-4.

Page No. 1.

Received on 11—3—1953, 11-55 hours.

(Initialed)——(illegible)
11—3—1953.

30 Report from the village magistrate of No. 74. Bedadaka village, Kasargod taluk, South Kanara district.

To the officer-in-charge of the Police station,

Kasargod

Reports as follows

The statement got recorded by Ambuka, nephew of the said Muthu and the statement of the injured Chirudai, that at Charalu of this village Kavudia Muthu had stabbed at the stomach with a

knife and murdered his wife Chirudai this day (Wednesday, dated 11-3-1953) in the morning at 8 o'clock time are enclosed. The injured has been sent to the Kasargode hospital for treatment. Request that the Police officers may come for further investigation.

The person who caused the injury is missing.

Signature of the village magistrate or other village officer sending the report—

(Signed) K. Puttaraja,
Potail.

Date and hour of despatch and through whom sent—11th March 1953, 2-30 p.m. Ugrani B. Manjunatha.

Exhibit P-5.

Dying declaration recorded at the female ward of the Government Hospital, Kasargod, between 11-30 p.m. and 12 midnight on 11th March 1953.

Name—Chirudai. Father's name—Chathu Kavudian. Village Badadka. Taluk—Kasargod. Caste—Barber. Calling—Household. Religion—Hinduism. Age—16 years

Commenced at 11-30 p.m.

Q.—Where are you now?

A.—In the Kasargode hospital.

Q.—How were you injured?

A.—I was stabbed by Kavudian Muthu, i.e., my husband.

Q.—When were you injured?

A.—This day morning.

Q.—Why were you stabbed and where?

A.—I do not know. I was stabbed inside my husband's house with a knife at my stomach.

Q.—Then who all came there?

A.—Yesterday evening my husband's elder sister Choyichi and her son Ambukan fetched me to my husband's house from the house of my father Chathu. This day morning while I was sitting in the verandah and mincing lemon for curry, husband called me in. I went. Then he held my hand and stabbed. I cried out. On hearing the cry (my) husband's elder sister Choyichi, her son

Ambuka, Aingoor Raman Nair, his nephew Kunhambu Nair and Parvathi, wife of Raman Nair came running. On seeing that my husband ran away, I do not know what happened next.

(Left thumb-impression of) Chirudai.

Closed at 12 midnight.

Taken down by me in the female ward of Government Hospital, Kasaragod, 11—3—1953, 11-30 p.m. and 12 midnight read over to the deponent and interpreted to her in Malayalam, a language known to her and admitted by her to be correct.

(Signed) U. LINGAPPAYA,

11—3—1953. *Stationary Sub-Magistrate, Kasaragod.*

Certified that the deponent was in a conscious condition all along the declaration was recorded and answered the questions put to her coherently and in a rational manner.

(Signed) U. LINGAPPAYA,

11—3—1953. *Stationary Sub-Magistrate, Manaalore.*

Exhibit P-6.

Complaint recorded on the 11th March 1953 on questioning Chirudai, daughter of Kavudian Chathu, residing at Maniyarakothi of Kolathur village, Kasaragode taluk, who is undergoing treatment as an inpatient in bed No. 2 of female ward in the Government Hospital, Kasargode :—

Now about nine months ago, I was married to Kavudian Muthu, son of Kavundian Ambu, residing at Cheral of Bedadka village. On yesterday dated 10th March 1953, in the evening Chöyichi alias Mani, elder sister of my said husband and her son Ambukkan fetched me from my father's house at Kolathur to my husband Muthu's house. This day morning at about 6 o'clock time, I was sitting in the verandah of my husband's house and mincing lentil for curry. Then my husband called me in from inside the house. I went in. My husband caught hold of my hand and stabbed me at the stomach with a knife. I cried out. On hearing my cry, Aingooran Rama Nair his wife Parvathi Amma (my) husband's elder sister Mani alias Chöyichi, her son Ambuka, Kunhambu Nair, nephew of Rama Nair and others came running, on seeing which my husband ran away. Later the police came. I gave my statement with him. I gave my thumb-impression to it. Now I am not feeling well, to speak more

to state the proper reason for stabbing me. My father Chathu Bannatha Koran, Theevan Chovambu and his son Kannan Kavudian Kannan and others together brought me to the hospital.

Heard being read in Kannada and translated to me in Malayalam language. (It is) correct as stated and got recorded by me.

(Left thumb impression of) Chirudai.

The above has been correctly recorded by me.

(Signed) J. D'Souza,

11—3—1953. *H.C. No.* 335. 910

Exhibit D-1.

IN THE COURT OF THE STATIONARY SUB-MAGISTRATE, KASARAGODE.

Preliminary Register Case No. 3 *of* 1953.

Deposition of main witness for prosecution.

Name—Aingooran Kaman Nayar. Father's name—Kunha Rai. Village—Bedadka. Taluk—Kasaragode. Caste—Nair. Calling—Cultivation. Religion—Hinduism. Age—47 years.

Solemnly affirmed in accordance with the provisions of Act X of 1873 on the 8th day of May 1953 by Sri K. N. Kamatu. 20

I live at Charla of Bedadka village. I know the accused. The accused is my tenant. His house is half a furlong away from my house. He is the tenant since three years. While coming as tenant, P.Ws. 3 and 4 and the accused came. Afterwards the accused was married. After the marriage (they) lived in one mess for some time and later began to cook separately. The accused and his wife Chirudai lived cooking separately. But the house was the same one. I know that Chirudai died due to stabbing. I learnt that from P.W. 3. The accused married the deceased nine months before the occurrence. Till 4 months after the marriage (they) 30 were on cordial terms. After that as the accused did not go for work regularly, there was difficulty for feeding and as such they were often quarrelling between themselves. The deceased out of anger went to P.W. 1's house. That was 1½ months before the occurrence that (she) went back. One day the accused came to P.W. 3 and told her that P.W. 1 was not willing to send the deceased to his house, that he (P.W. 1) would send only if P.Ws. 3 and 4 came and requested P.W. 3 to go and fetch the deceased. Accordingly on the evening of the very day on which P.Ws. 3 and 4 went they fetched the deceased home. That was on the day previous to 40 the occurrence. On the day of the occurrence in the morning at 8 o'clock I was working near my house. Then P.W. 3 and my wife were in the house. P.W. 3 told me that a " Kendali " tender

coconut was required to remove impurities from the accused's stomach. Boy, then cries were heard saying "I am being killed." That was Chirudai's cries and from the accused's house. At once P.W. 3 ran from our house to her house. I followed (her). When I proceeded 20 marus from my house, I saw the accused running from his house over the hill to the east. The accused was 50 marus away when I saw (him). He was carrying a knife in his right hand. The white shirt he was then wearing was stained with blood. When I went to the accused's house, the deceased was coming out to the verandah from inside. There was a big wound on her stomach and the bowels were visible. P.W. 3 was there. At once (we) made the deceased sit down. P.W. 3 supported her. When I asked P.W. 3 told me that the accused stabbed the deceased and ran away. When I started to go to inform the potail P.W. 4 came running towards the house. I took P.W. 4 and started to the potail's (house). On the way I met Chalian Raman near my tea shop. I sent him to inform about this to P.W. 1. We went to the potail's (house). P.W. 4 told the potail what had happened. Potail recorded P.W. 4's statement. I, P.W. 4 and the potail and is ugrani came from there to the scene of offence. While coming back P.W. 1 and others were at the scene of offence. The potail questioned Chirudai, took down her statement; read it over and took her thumb-impression to it. When I asked P.W. 3 the reason for stabbing, she told me that the deceased has told her that the accused called her (deceased) inside and asked her to spread a mat, that when she said that she could not spread a mat during day time, the accused stabbed her as he would not require a woman who refused to act to his wishes. Sub-Inspector questioned me in this case.

Cross-examination.—When I went the accused was not in the house. Near my pepper garden the forest has not been cleared in the land belonging to Chandu Nair. I never objected to it. On account of this there was no Police case and Head Constable did not come for investigation. Last year I had no tobacco cultivation, or trade or its stock. The Excise Inspector never searched my house. I never asked the accused to vacate till now. There was no ill-will of any sort between me and the accused. Till the occurrence, I was friendly with him. He was coming to my tea shop and taking tea. It is not true to say that I am deposing like this out of ill-will towards the accused

Re-examination.—Nil.

(Signed) Raman Nair.

Taken down, etc.

8—5—1953

(Signed) H. RAMESH RAO,
Stationary Sub-Magistrate.

List of material objects.

IN THE COURT OF SESSION, SOUTH KANARA.

Sessions Case No. 10 of 1953.

(Preliminary Register Case No. 5 of 1953 on the file of the Stationary Sub-Magistrate, Kasaragod.

Mark given in the Committing Court	Mark given in the order of Commitment	Item of reference in the letter to the Chemical Examiner.	Item of reference in the letter to the Government Serologist.	Mark given by the Government Serologist.	Description.	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	III	II	II		A folding knife (dismantled)	Seized from the accused by P.W. 2 and others and produced at the time of arrest
	I	II	I	Mark not given	A cloth worn by the deceased.	Seized from the body of the deceased at the inquest.
	II				A blouse worn by the deceased.	
	IV	IV	IV		A small shirt	Worn by the accused at the time of the offence and seized at the time of arrest.
	V	IV	V		A thorth mundu	
	VI	I			Blood stained earth	Scraped from the places where the deceased was atabbed

Court of Session South Kanara
Mangalore,
15—7—1953.

(By order)
(Signed) N. S. Upadyay
Sarishtadar

Appeal petition.

IN THE HIGH COURT OF JUDICATURE AT MADRAS.

Criminal Appeal No. 462 *of* 1958

Appeal preferred by condemned prisoner No. 7137, Kavudian Muthu confined in Central Jail, Cannanore, against the conviction and sentence of death passed on him in S.C. No. 10 of 1953 on the file of the Sessions Judge, South Kanara.

The appellant prefers to submit the following against his conviction and sentence of death among other grounds of appeal

10 That the prosecution story that the appellant murdered his wife due to causes not known and that the appellant was treating his wife badly is not true. But the appellant came to know that his wife was having intimacy with P.W. 2. The appellant begs to submit that he was ill advised by the Police that he should not tell the fact and he should only tell the story as he had done before the learned Sessions Judge and in the Committal Court that his wife died due to the fall on the Mettukathil due to fits. The appellant is uneducated and have no experience in such matters. So thinking that the advice was for his good he hide the real facts and told what the Police taught him. Now the appellant realises his folly of not deposing the real facts and he begs to submit the same.

The appellant was away for work in his father-in-law's compound (cleaning the compound) in the morning. But on this way he was informed that there was no work on that day and the appellant returned home. On his arrival he found on the veranda of his house some of the vegetables cut and balance without cutting. The appellant wondered where his wife might have gone with half-cut vegetables. The appellant entered on the veranda and saw that the door (the door of the room is with palm leaves and without any planks) was closed. He peeped through the holes of the door and the appellant could not even think what he found inside. The appellant was astonished to see his own wife having intercourse with his(?) sister's son (P.W. 2). The appellant who was having a koduval on his hand for clearing the jungle, pierced the 'koduval' through palm leave door and gave a cut on the body of P.W. 2. But unfortunately P.W. 2 slipped away and the cut was on his wife. Both of them were lying near the door.

P.W. 2 escaped through the other side of the door and he went and told the fact to Raman Nair (P.W. 4). P.W. 4 who is inimical towards the appellant as he gave information to the officials of the Excise Department regarding concealing of tobacco by

P.W. 4's brother. P.W. 4 with some of his coolies came to the spot and advised P.W. 1 who just reached the house to tell that she saw the appellant cutting the deceased, etc., in order to save her son. As Raman Nair and party tried to tie the appellant and beat him he ran away to the forest.

That it is evidence that his wife was in terms of intimacy with P.W. 2 who is only 19 years of age. On the previous day of the occurrence P.Ws. 1 and 2 went to fetch the deceased home. Even though the appellant was in good terms with his wife, she was having intimacy with P.W. 2. Perhaps due to this reason only P.W. 1 and the deceased were not in good terms and the appellant and his wife had to cook their food separately in one of the two rooms. 10

That the appellant admits that the cut which was intended for P.W. 2 was inflicted on the deceased and the appellant could not control his temper when he saw with his own eyes that his sister's son was having intercourse with his own wife and hence he gave a cut with the Kodoval which was on his hand. The appellant thinks every human being will do the same and nobody will think of the consequences at such a time. 20

The appellant once again submits that due to the sudden provocation only he did such an act and he may be acquitted and set at liberty.

(Signed in Malavalam) Kavudian Muthu,
Convict No. 7137.

Certified that the contents have been translated in his vernacular, explained to him and acknowledged by him to be correct.

(Signed)———
Central Jail, Cannanore.

(True copy)

'51

CASE DIARY.

Police Station: Kasaragod. First information Book No.47 & 47-A 1953 - S.K. Dt.

Date and place of occurrence. Bedadka village, 24 miles East.

Offences.	Sec. 302 I.P.C.
Date (with hour) on which action was taken.	Record of investigation.

12-3-1953. - 08.00 hrs.

I. 11-3-1953.

II. Report of the V.M. of Bedadka

III. Accused.

Kavudiyan Muthu, s/o Kavudiyan Ambu of Bedadka.

IV & V. -

VI. New C.D.

VII. Witnesses examined.

1. Dr. R.Chaco, M.B.B.S. W.A.S., Govt. Hospital Kasaragod.
2. Kavudiyan Chathu, s/o Chathu, Kolthur.
3. Raman s/o Chathu, Kolthur.
4. Ichira d/o Ambu Kolthur.
5. Kannan s/o Ambu Kolthur.
6. Choyis Ambu s/o Choyi Kolthur.

In this case the accused Kavudiyan Muthu stabbed his wife Chirudeyi on 11-3-53 on the stomach in his house and she was carried to the hospital at Mangalore on the same day, but she died at 1 a.m. in the night. The case was originally registered under sec. 326 I.P.C. on receipt of the report of the V.M. of Bedadka with the statements of one Ambukka (accd.'s nephew) and that of the decd. recorded by the V.M. at the spot and also a statement recorded by the S.W.H.C.335 from the decd. on receipt of an intimation from the doctor at 22-10 hrs the same night. At 8-35 a.m. today the subsequent intimation from the doctor was received to the effect that the injured who was an inpatient in the hospital died last night at 1 a.m. and on this F.I.R. 47-A was registered under sec. 302 I.P.C. by the S.W. and Express reports were despatched to the concerned.

The original F.I.R. registered under section 326 I.P.C. at 23-50 hrs. yesterday and sent to me through P.C. 880 was received by me at Kasaragod this day at 08.00 hrs. on my return from Adhur and as I was proceeding for investigation the further intimation was also received regarding the death.

P.T.O.

Having despatched H.C. 246 and P.Cs 836 and 165 to the village in advance to secure the accused who is said to have absconded and also to guard the scene, I proceeded to the local hospital and having summoned the panchayatdars commenced the inquest at 10-30 hrs. Copy of the Inquest report is enclosed. The Inspector also arrived at the hospital and was present during the inquest.

After completing the investigation the body was handed over for post mortem examination through P.C. 880 at 11-00 hrs. The injured was having a long sutured wound about 8 inches long scross the stomach and a small abrasion on right toe. The clothes found on the dead body have been seized.

Witness Kavudiyan Chathu (father of the decd.); Raman (uncle of the decd.) Ichira (grand mother of the decd.) Kannan and Choyi Ambu - distanct relation - who were present at the hospital have been examined at the inquest.

Witness - 1. the Lady doctor in charge of the hospital speaks to the decd. having been brought to the hospital at 9-40 p.m., her attending on the deceased, for the injury which is likely to have been caused by a knife. The injury had been tied by means of a number of clothes to avoid bleeding and she found the intestines come out. It was a very serious injury and she also sent intimation to the police and the Magistrate for dying declaration. At about 1 a.m. in the night the patient died and she sent intimation to the hospital at 8-30 a.m. today.

(The doctor will be questioned further on receipt of the post mortem certificate,)

Witness - 2. Kavudiyan Chathu, s/o Chathu, Kolthur. He states that the deceased is her first daughter and is aged about 16 years. She was married to the accused about 8 months ago. About one and a half months ago (on the 7th of Magaram) the decd. came and stayed in his house. Before that also she was very often coming & staying in this house. The accused was not earning sufficient income and had been finding fault with the deceased, if food was not ready. The accused's sister and the latter's son (Mani and Ambukkan) were

living in the same house, but were doing separate cooking with separate establishment. The accused had been visiting witness's house often and had been pursuading witness to send the deceased to hisown house, but witness was reluctant and about 4 days ago he gave an excuse that unless accused's sister goes and invites the deceased he is not prepared to send her as the deceased too was reluctant to go. The accused thereupon sent his sister Mani on Monday (9th instant) to fetch the decd. and the decd. went with her to the accd.'s house on the following day. Yesterday at about 10 or 11 a.m. he was informed by one Chaliayan Raman of Kolthur that the accd. had stabbed the decd. and so witness ran to the accd.'s house immediately and when he reached there he found the decd. resting on the laps of Mani(accd's sister) on the verandah with a big stab wound on the stomach. Both of them were weeping and on seeing him the decd. told that the accd. deceived, that he called her inside the house and when she went inside he stabbed her etc. Mani also told in full details that early morning when Mani had gone to Ayyangooran Raman Nair's house (Neighbour) for betel-nut, the accd. and the decd. were in the house, the decd. preparing vegetables for curry on the verandah, that a little later she heard cries of the decd. and when she came there she saw the accd. running away with a knife, that the decd. told her that the accd. stabbed her and ran away etc. With the help of other the decd. was carried to the hospital where she died at about 1 a.m. after midnight etc.

Witness 3 Raman, s/o Chathu. He is the brother of witness 2. He states that he heard that the accd. had stabbed the decd. when he (witness) was in Kolthur village. When he was going to the scene he found the decd. being brought to the hospital and seeing him the decd. told him that the accd. deceived her by calling her inside the house and stabbing her. He accompanied the decd. to the hospital where she died in the midnight.

Witness 4 Ichira d/o Ambu, is the grand mother of the decd. She too came to the hospital hearing about the decd. having been stabbed etc.

Witness 5 Kannan, s/o Ambu is living in Kolthur and is No. 2's nephew He too speaks to the marriage of the deceased with the accused about

8 months and that the decd. had been living in No. 2's for about 1½ months past and that No. 2's sister Mani went there and took her to their house 2 days ago etc. He heard about this occurrence when he was in his house and later followed the injured to the hospital. The injured told him also that the accused stabbed her etc.

Witness 6 Choyi Ambu, s/o Choyi. Is a neighbour of wit. 2. He too came to the hospital with the party carrying the decd. to the hospital, etc.

Having completed the inquest ✗/ at 14-00 hrs. proceeded to the village along with the Inspector and halted in the village for the night at 23-00 hrs. Further investigation will be held tomorrow. The accd. is absconding. H.C. 246 and P.Cs 836 and ~~265~~ 165/2 have arrived the village and are guarding the scene and made attempts to trace the accused, but could not locate him. He is ✗/said to be hidding in the forests. He had been previously involved in a stabbing case in 1949 or 1950 in which case he was acquitted.

Sd/

S.I. of Police, Kasaragod. 12/3.

Counter-signed. I was present throughout the investigation and gave necessary instructions.

Sd/

Inspector of Police, Kasaragod. 12/3

45

Police Station: Kasaragod. First information Book No. 47 & 47-A of 53 Dt. 3.K.

Date and place of occurrence: Bedadka, 24 miles East.

Offence. Sec. 302 I.P.C.

Date (with hour) on which action was taken.

13-3-1953 - 06.00 hrs.

I. 11-3-1953.

II. Report of the V.M. of Bedadka.

III. Accused Kavudiyan Muthu.

IV and V.

VI. C.D. dated 12-3-53.

VII. Witnesses examined:-

7. Mani alias Choyichi, d/o Ambu, Bedadka.
8. Ambukkan, s/o No. 7.
9. Ayyangooran Raman Nair, n/o Koran Nair, Bedadka.
10. Kunhambu Nair, n/o Raman Nair Bedadka.
11. Parvathi, w/o Ayyangooran Raman Nair, Bedadka.
12. Pattaraja, V.M. of Bedadka.
13. Manjunatha, Ugrani of the V.M. Bedadka.
14. Mani, wife of Chathu Kolthur.
15. Narayana, s/o No. 14. Kolthur.
16. Paru, d/o No. 14, Kolthur.
17. Chaliyan Rama, s/o Raman Kolthur.

Record of investigation.

Continuing investigation into the case this day I examined the witnesses noted in the margin and also the scene of offence and made searches for the absconding. needs

The place isknown as Cherlu and the house is a small thatched hut on the slope of a hill. The plot belongs to one Ayyangooran Raman Nair whose house is situated 150 yards to the North on the slope of another hill almost on the same level witha small channel in the middle. The hut faces North with one main room the door which opens to the North, a narrow front verandah and a side room to the West enclosed by cadjan leaves with its opening to the verandah mentioned above. An eye sketch is given, and a copy of the observation yadast is also enclosed. The front verandah is open without any enclosure. On the Eastern side of the verandah there are some stains of blood and the earth from this place has been seized under the observation yadast.

Witness 7 Mani alias Choyichi states that she is the elder sister of

P.T.O.

47

the accd. wit., her son Ambukka (aged about 24 years) and the accd. had been living in the xxxxxhouse for the last about four years. The accd. married the decd. about 8 months ago and started a separate establishment in the Western room. After one or two months she saw the accd. often finding fault with the decd. for reason such as food being not ready, etc. and there were quarrels also between the accd. and the decd. for the same reasons. Finally about 1½ months ago the decd. left the house for her father's house and the accd. also went and stayed in the latter's house, visiting this house also off and on. About 4 days ago the accd. came and requested her to go to the decd.'s father's house and fetch the decd. saying that unless the witness went she would not come, and that he (the accd.) wanted to get the decd. here and live along with the witness as members of one single family without any sort of misunderstandings. Witness thereupon went to the decd.'s house along with her son Ambukka on last Monday and returned the following day along with the decd. The decd. told her that she was not willing to live separately with her husband alone as she was afraid that he would beat her and so agreed to return to the accd.'s house only if the witness went and invited her and li live together. That night they had a common cooking and all of them including the accd. ate food and slept. On the day of the occurrence i.e. the following day also they prepared coffee together and all were served with coffee. Then her son Ambukka left for his usual profession and the accd. requested her to get one or two 'red' tender cocoanuts (known as chendenha for medical purpose) from the landlord Ayyangooran Raman Nair, saying that such tender cocoanuts were necessary to cure him of the black art played by some one on him. Accordingly she left to the neighbouring house of Raman Nair and received from her betel-nut standing on the verandah, and before she could raise the topic of the tender cocoanuts with Raman Nair who was in the garden, she heard a cry as 'I am being killed' from inside her house. She therefore ran to herhouse, followed by Raman Nair and others who also came hearing the cries, and when she was within about 30 yards from her house she saw

about 30 yards from her house she saw the accd. ~~she saw the accd.~~ leaving the house and going away towards the EAst through the hill slope. He had an open penknife in his right hand which was red with blood. His hand and dress were also red with blood. The decd. also came out of the room crying with a big wound on her stomach with her dress also full of blood. When witness left a few minutes earlier to Raman Nair's house the accd. and the decd. were alone in the house both seated on the verandah, the decd. preparing vegetables for curry. She found the vegetables on the verandah itself Witness made the decd. rest on herlaps and sat on the verandah and the defd. said that her husband called her inside soon after left the house for tender cocoanut, that when she went inside he pressed her for cohabitation, that she declined being day time, that he caught hold of her and compelled her, that she tried to escape outside when he stood at the doorway, took out his penknife and then she cried aloud saying that she was being killed and then the accd. stabbed her on the stomach and ran away, and she continued to cry. Witness did not allow the wound to bleed and put all the clothes to the injury assisted witness Ayyangooran Raman Nair who too had arrived there and heard the decd. narrating the story. Immediately her son Ambukka who heard the cry when he was going for his work returned and arrived there. Witness as well as the decd. told him that the accd. stabbed her and ran away. By then neighbours Parvathiamma, Kunhambu Nair etc. also arrived there. Her son Ambukka was sent to the Potail and information was sent to the decd.'s father also The injured was getting exhausted when the V.M. arrived at about 10 or 11 a.m. and a little later decd. father also arrived there and after recording the statement of the decd., she was conveyed to the Kasaragod hospital, she does not know where the accd. has run away.

This witness showed the place where she reached when she saw the accd. running away, the place where she found the accd., the blood spot on the verandah the place where she first heard the cries etc.

Witness 8 Ambukkan, s/o Mani. States that the decd. was

married to his uncle about 8 months ago, that there were frequent quarrels between the ~~d~~ accused and his wife (the deceased.) on account of the ~~deceased~~ decd.'s failure to get food etc. ready for the accd., ~~&~~ that about 1½ months ago the decd. left for her father's house and that the accd. also went and stayed there though off and on he was coming to this house also. About 4 days the accd. wanted his mother witness 7 to go to the decd.'s father and get the decd. He said that the decd. would not come to the house, and her father also supported the decd., unless Mani went and invited the decd. and unless they lived together. According witness and his mother went to the decd.'s house about 4 days ago and returned with her the following day evening. Next day early morning at about 8 a.m. after finishing watering the chilly plantation he and other members, viz., the decd./the accd. and witness 7 all took coffee and witness left the house for his profession (barbar) as usual to Machalangot. His mother, the ~~deed.~~ accd and the ~~accd.~~ dead were present in the house ~~&~~ when he left. When he had walked about 2 furlongs along the hill slope on the Western side of the house he heard very loud cries from the house and so he returned. As he was approaching the house he had been the accd. going away from the direction ofthe house towards the south through the hill slope. When he arrived the house he found the decd. with a big stab wound on the stomach and resting on the laps of hismother. The decd. told him that his uncle Muthu stabbed her and his mother also said so. He immediately ran to the Potail's house. Ayyangooran Raman Nair who was also present there when he reached there was requested by witness to go to Kolthur or send informatinn to Kothur to decd.'s father. Witness went and toldthe V.M. what the decd. told him and the V.M. recorded his statement, came to scene and recorded what the decd. was able to state also and then the decd. was carried to the hospital by her father and others who had assembled there by then. Some drops of blood that had falle on the verandah had licked up by the dog and the vegetables on the verandah had been used by them

This witness showed the place where ~~&~~ he heard the cries where he saw the accd. going away etc.

Witness 9 Ayyangooran Raman Nair, n/o Koran Nair states that the plot in question belongs to him and he had allowed the accd. and witness 7 and 8 to live there in a small hut. The accd. had married the decd. about 8 months ago and there used to be frequent quarrels between the accd. and the decd. About 1½ month ago the decd. went and stayed permanently in her father's house and the accd. was also going there very often. Three days ago witness Mani and Ambukkan went and got the decd. back as desired by the accd. The following day i.e. day before yesterday morning at about 8 a.m. he was working in the compound and witness Mani came to his courtyard and was receiving betel-nut from witness's wife Parvathi, when a cry was heard from the scene saying that 'I am being killed' etc. Mani then ran to the house and he too followed and when they were nearing the accd. was seen leaving the house and going away towards the South up the hill with a penknife. His hand, the dress etc. were full of blood. The decd. also came out of the house with a big wound on the stomach. When Mani asked her what the matter was the decd. said that that the accd. called her inside the house and when she went inside he compelled her for sexual intercourse, that she refused to agree being day time, that the accd. then opened a knife upon which she raised an alarm and that the accd. then stabbed her on the stomach and ran away etc. Mani told witness that her son had gone away for work and that the accd. had sent her to witness's house for getting two red tender cocoanuts, and by the time she could ask him (witness) for the tender cocoanuts this unfortunate thing took place etc. By then Ambukkan returned having heard the cry on the way and the decd. told him that his uncle Muthu stabbed her. Ambukkan went away to inform the Potail and witness proceeded to Kolthur to inform the decd's father, and after searching him returned as he heard that the father had already reached the scene having come to know of the occurrence from other persons. When witness reached back the decd. had been taken away to the hospital.

Witness 10 Kunhammbu Nair, n/o Raman Nair lives about 1½ furlong away and he came to the scene on hearing the cries at the scene and when he came to the scene he saw the accd. proceeding towards the South through the hill at a distance. The decd. told that the accd. called

her inside the house and stabbed her etc.

Witness 11 Parvathi, wife of Raman Nair states that on the day of offence early morning at about 8 a.m. witness Mani went there and wanted to request her husband witness Raman Nair, who was in the garden, for red tender cocoanuts, that witness gave her betel-nut and then loud cries were heard saying that 'I am being killed' from the house of witness Mani. The latter then ran, but witness could go only slowly as she had a sprain on her leg, as she was going the accd. was seen walking up the hill on the Southern side. Witness Ambukkan, neighbour Kubhambu Nair and others also came there. The decd. told that her husband called her inside and stabbed her. Later the V.M. also came and recorded what the decd. stated and the decd. father and other people carried her to the hospital. This witness also speaks to the frequent quarrels between the decd. and accd., the decd. going away to her father's house and her having been brought back by witness Mani about 4 days ago etc.

Witness 12 Puttraja, V.M. of Bedadka states that on the day of occurrence at about 10 a.m. witness Ambukkan went to him and told him that his uncle Muthu had stabbed his wife Chirudeyee and he recorded his statement, then proceeded to the scene and found the decd. with a big wound on the stomach and in a very exhausted condition. She also stated that her husband stabbed her etc. and witness recorded the statement and sent the reports etc.

Witness 13 Manjunatha, s/o Yellayya, Ugrani, speaks to his having accompanied the V.M. and taking the report to Kasaragod etc.

A thorough search was made for the accd. in the forest area with the help of the V.M. and H.Cs 246, 277 and P.Cs. 836, 165, 880, 735 and 1035, but he could not be found. A search was made along the path taken by the accd. and also in and around the house for the knife and other incriminating objects, but nothing was found.

I proceeded to the house of the decd.'s father and questioned furthe witness.

Witness 14 Mani is the mother of the dcd. She speaks to the marriage of the decd. with the accd. about 8 months ago, that the decd. was expressing her inability to live with the accd. as the latter was beating her etc., and about 1½ months ago she went from the accd.'s house and stayed with them. The Accd also used to go there and stay there for some days at a stretch and was asking for the decd to be sent back to his own house, but the decd. was unwilling to go as the accd. was living as a separate establishment in his house where the accd.(s sister and the latter's son too were living. The decd. would not agree to go and live in a separate house along with the accd., but chose to go to the old house if the accd.'s sister came and invited and if they would live together The accd. agreed and about 4 days ago sent his sister witness7 - and her son to fetch the decd. and the decd. went with them. Next day at about noon she was informed Chalian Raman that the accd. had stabbed the decd. and he was sent to inform her husband as she could not proceed with her infant baby. Her husband went direct to the scene and from there the decd. was taken to the hospital and on the following day she heard that her daughter succumbed to the injury in the hospital.

Witnesses 15 Narayana and 16 Paru - children of No.14 and othertwo small children in thesame house questioned separately are not ina position to state anything useful.

Witness 17 Chaliyan Raman, s/o Raman of Kolthus speaks to his having heard about the stabbing of the decd. by her husband and searched for her father in Kolthur and informed his etc.

I made detailed enquiries in thelocality to find out if the accd. has visitedanywhere this area, but could not get any inform-ation Leaving H.C.277 and P.C.1035 to watch the house of the accd and trace him I returned to Kasaragod with the men at 21.00 hrs., closed the investigation for the day and halted at Kasaragod.

Sd/K.Batiappa,
13/3
S.I.of Police,Ksaragd.

Countersigned. I was with the S.I. during the investigation and gave ncessary instructions and directions.

Sd/ xx xx 13/3
Inspr-of Police,Kasaragod

Police Station: Kasaragod. First information Book No. 47 & 47-A of '53 S.K. Dt.

Date and place of occurrence: 11-3-53 - 8 a.m. Bedadka - 24 miles East.

Offence.	Sec. 302 I.P.C.
Date (with hour) on which action was taken.	Record of investigation.
14-3-1953 - 07.00 hrs.	The copy of Post Mortem certificate has been
I. 11-3-53.	received and the following is a copy:
II. Report of the V.M. of Bedadka.	"No. 8/53.
III. Accd. -Kavudiyan Muthu.	Regarding the body of a female aged about 16 years named Chirutheyi.
IV and V.	Requisition received at 11-30 a.m. on 12-3-53 from
VI. 13-3-53.	the S.I. of Police, Kasaragod with letter No. nil
VII. Wits. exd.-	dated 12-3-53.

Body in charge of police constable No. 880 Achutha.

Identification and ~~xxxxxxxxx~~ caste marks:-

Black mole on the right cheek, black mole just below the right eye.

The body was first seen by the undersigned at 11.30 a.m. on 12-3-53.

Its condition then was rigor mortis present.

Post Mortem commenced at 3 p.m. on 12-3-53.

Appearances found at the post mortem:

External appearance-features calm and pale hair black, length 16" eyes closed; teeth complete; jaws clenched; hands clenched and empty.

External injuries:

1. sutured transverse wound 10" long, just ½" above the umbilicus, extending from the right side of the abdomen 5" lateral to the middle line straight to the left side to 5" length.
2. An abrasion ½" x ¼" on the medial aspect of the right toes.

Internal examination: Fluid blood about 4 oz. in th peritoneal cavity. Heart - 4 oz. - normal.

Rt. lung - 10 oz.; left lung- 8 oz.- both normal.

Stomach: - distended with about 10 oz. of coffee coloured fluid.

Liver: 24 oz. normal.

Spleen: 3 oz. normal - Kidneys: each 4 oz. - normal.

Small intestines:- 1. Transverse penetrating incised wound 1" long and half inch broad on the small intestine just above the messentree attachment through which round worms escape.

2. Penetrating incised wound ¾ " x ½" about 3" below ✗ on the small intestine on the same side.

3. Penetrating incised wound ¾" x ½" about 2" below to [illegible] No. 2 on the ✗ opposite side.

Transverse colan: The greater amentun was torn about 3" long from its attachment to the transvers colan.

Uterin: - 1 oz. empty - normal.

Brain: 40 oz. - normal.

Opinion as to cause of death:

The deceased would appear to have died of shock and haemmorhage due to the result of injuries described.

Kasaragod
12-3-53.

Name: R.Chaco.

Rank: Woman Asst. Surgeon.

The accused in the case is absconding. He appears to be an undesirable and rowdy. He is the accused in Cr.No.95/49 of this station, sec. 448, 324, 451 and 354 in which case he assaulted one Chandu Maniani having entered his house to molest his daughter and was convicted under sec. 451 I.P.C. and released under sec. 562 Cr.P.C. in C.C. 393/49 by A.F.C.M., Kasaragod on 21-12-49. Informats have been set up to trace him, and men will be deputed to arrest him.

Sd/

S.I. of Police, Kasaragod 14-3-53.

63

Police Stn: Kasaragod. First information Book No. 47 of 53 S.K. Dt.

Date and place of occurrence: 11-3-53 Bedadka.

Offence. Sec. 302 I.P.C.

Date (with houf) on which action was taken.	Record of investigation.
15-3-53. 1800	This day I questioned the Doctor who states that the injuries mentioned in the wound certificate indicate only one stab and due to the movement of the blade of the knife inside the gaping wound would have caused the other injuries. The wound is likely to have been caused at the alleged time and that an ordinary penknife would be sufficient to cause the injury.
I. 11-3-53.	
II. Report of the V.M. of Bedadka.	
III. Accd. Kavudiyan Muthu.	
IV and V.	
VI. C.D. dated 14-3-53.	
VII. Wits. exd.	The accused is still absconding. P Cs deputed on special duty have not been able to trace him. Informants have been set up to gather clue regarding him. Further enquiries will be made.
1. Dr. R. Chaco M.B.B.S. Govt. Hospital Kasaragod.	

Sd/

S.I. of Police, Kasaragod
15-3-53.

65

Police Stn: Kasaragod. First information/ Book No. 47 of 53. S.K. Dt.

Date and place of occurrence. 11-3-53 - Bedadka.

Offence.	Sec. 302 I.P.C.
Date (with hour) on which action was taken.	Record of investigation.

19-3-53.

I. 11-3-53.

II. Report of the V.M. of Bedadka.

III. Accd.

Kavudiyan Muthu.

IV and V.

VI. 15-3-53.

VII. Wit. exd.

In this case further searches were made by me and my men with the assistance of private persons in Bedadka village arround the house of the accd. in the forest where the accd. was learnt to be hiding on 16-3-53 and 17-3-53 but he could not be traced. Yesterday night towards the early hours of the morning the accd. was caught by private individual by Ayangooran Chindan Nair, with the aid of some of his men and was produced at the station today at 11 a.m. and was questioned in detail. He states that his wife (the decd.) was unfaithful to himself and was carrying on with his nephew Ambukkan though she had not formally matured. There was no difficulty to have intercourse with her as she had heard that her mother too had become pregnant without attaining maturity. He had warned his nephew and his mother Manikkam as well as the decd. that Ambukkan should not do like this. The decd. had admitted that Ambukkan compelled her several times and so she had to yield and promised to be faithful to him (accd.) but again she gave room for suspicion and so he took her to her parents house about 2 months ago and left her there. He had told about the decd.'s intimacy with Ambukkan to the decd.'s father and mother and also to his landlord (Raman Nair neighbour) He was never quarrelling with the decd. on account of food being not ready as alleged. Finally the decd. was brought back to the house by Ambukkan and his mother on the previous day and she and his sister slept together and accd's Ambukkan slept on the verandah

On the day of offence early morning he went away to water his chilly garden and his nephew had gone for his usual work as a barber. At about 8 a.m. he noticed Ambukkan stealthily returning to the house under the cashew trees and so he also returned a little later through another way. He went and watched through the thattie enclosure from the rear and saw the deceased and nephew Ambukkan lying together and so went through the front and by the time he could reach there Ambukkan got the scent, and jumped out and ran away. He asked his wife if she could repeatedly do like this and she said she was finding helpless as Ambukkan was compelling her. He got angry. stabbed her on thestomach with his penknife and as she raised a cry he ran away and was hiding in the forests. Yesterday he thought of approaching Chindan Nair to surrender him before the police and so went and slept in a vacant hut about a furlong away from Chindan Nair's house. At midnight, Chindan Nair, Ambukkan and about 5 or 6 others went to him, beat him strike his hand and tied him with rope and brought him here after beating and kicking him all over the body.

The accused has several injuries on him. As far as his complaint against those who caught him is concerned I have registered F.I.R. 54/53 u/s 325 and the same is being investigated separately.

The accused's story appears to be fentastic. The clever rogue that he is (as already reported) he has chosen to yarn the present story to save himself on the ground that his act may be constructed as due to grave and sudden provacation. If at all his story is true what he did amounts a free meditated murder for it is clear that he knew about the connection between herself and Ambukkan and was evidently waiting for an opportunity to catch her redhanded. Then again it should have been Ambukkan who should have been stabbed if the accused claims this Act to be the result of grave and sudden provocation, and not the woman alone. On having been feeling satisfied about th reprehensible conduct of the wife (from her own confessions) he should have severed her connection with her, if there is any truth at all in what he says. However I am verifying his statement.

69

I questioned the lady Doctor again. She states that she had examined the decd. and found her fully developed in all parts and she had matured.

I questioned Ayangooran Chinden Nair, Ambukkan, Krishnan Nair s/o Koran living in the same village, and known to both parties. All of them state that the story regarding the intimacy as alleged by accd. is totally false.

I questioned the parents of the decd., the sister of the accd. and their landlord Raman Nair, and thay state that the the accd. had never complained regarding the alleged intimacy nor was there any indication of any such intimacy between Ambukkan and the decd. and that the story given by accd. is false.

I also verified if it was correct that the accd. had gone out for watering chilly garden in the morning, but found it to be false It is actually Ambukkan who had gone for watering.

Detailed enquiries into the complaint of theaccd. are given in C.D. in Cr.No.54/53.

The accd. has been sent for remand. After consulting A.P.P.I the case will be charged.

Sd/ K. Batiappa.
S.I. of Police, Kasaragod 19/3/53

N.B.

A small penknife (admitted by accd. to have been used.) and the clothes ofthe accd. found with the accd. have been seized.

Police Station - Kasaragod - First Information Book No.47 of 1953 - South Kanara District - Date and Place of occurrence -11-3-53 - Bedadka.

Offence - Section 302 I.P.C.

Date(with hour) on which action was taken.
25-3-53.

I. 11-3-53.

II. Report of the V.M. of Bedadka.

III. Accused Kavudiyan Muthu.

IV and V -

VI 19-3-53.

I have this day submitted a charge sheet in the case after consulting A.P.P.I. Mangalore. Copy of the memo. of evidence and charge are enclosed.

The accd. has a fracture on his left hand and is under treatment. I have submitted a report to S.S.M. Hosdrug requesting him to record the cofessional statement of the accd.as there are no magistrates empowered at Kasaragod and the A.F.C.M, expressed language difficulties as ~~xxxxxx~~ accd. is a Malayalee. I have also submitted reports to the chamical Examiner through S.S.M. Kasaragod for forwarding blood stained ~~xxx~~ articles.

Sd/K.Batiappa,25/3
S.I.of Police,Kasargod.

/True copy/

3/4 A Coelho

Dt.Superintendent of Police,
South Kanara.

Mangalore,
29-9-1953.

29/9

#173

CASE DIARY.

Police Station: Kasaragod. First information Book No. 47 & 47-A 1953 - S.K.Dt.

Date and place of occurrence: Bedadka village, 24 miles East.

Offences. Sec. 302 I.P.C.

Date (with hour) on which action was taken.	Record of investigation.
12-3-1953. - 08.00 hrs. I. 11-3-1953. II. Report of the V.M. of Bedadka. III. Accused. Kavudiyan Muthu, s/o Kavudiyan Ambu of Bedadka. IV & V. - VII. Witnesses examined. 1. Dr. R. Chaco, M.B.B.S. W.A.S., Govt. Hospital Kasaragod. 2. Kavudiyan Chathu, s/o Chathu, Kolthur. 3. Raman s/o Chathu, Kolthur. 4. Ichira d/o Ambu Kolthur. 5. Kannan s/o Ambu Kolthur. 6. Choyi Ambu s/o Choyi Kolthur.	In this case the accused Kavudiyan Muthu stabbed his wife Chirudeyi on 11-3-53 on the stomach in his house and she was carried to the hospital at Mangalore the same day, but she died at 1 a.m. in the night. The case was originaly registered under sec. 326 I.P.C. on receipt of the report of the V.M. of Bedadka with the statements of one Ambukka (accd's nephew) and that of the decd. recorded by the V.M. at the spot and also a statement recorded by the S.W.H.C. 335 from the accd. on receipt of an intimation from the doctor at 22.10 hrs. the same night. At 8-35 a.m. today the subsequent intimation from the doctor was received to the effect that the injured who was an inpatient in the hospital died last night at 1 a.m. and on this F.I.R. 47-A was registerdd under sec. 302 I.P.C. by the S.W. and Express reports were despatched to the concerned. The original F.I.R. registered under sec. 326 I.P.C. at 23-50 hrs. yesterday and sent to me through P.C. 880 was received by me at Kasaragod this day at 08.00 hrs. on my return from Adhur and as I was proceeding for ~~in~~ investigation the further intimation was also received regarding the death. P.T.O.

Having despatched H.C. 246 and P.Cs 836 and 165 to the village in advance to secure the accused who is said to have absconded and also to guard the scene, I proceeded to the local hospital and having summoned the panchayatdars commenced the inquest at 10-30 hrs. Copy of the Inquest report is enclosed. The Inspector also arrived at the hospital and was present during the inquest.

After completing the investigation the body was handed over for post mortem examination through P.C. 880 at 11.00 hrs. The injured was having a long sutured wound about 8 inches long across the stomach and a small abrasion on right toe. The clothes found on the dead body have been seized.

Witness Kavudiyan Chathu (father of the decd.); Raman (uncle of the decd.) Ichira (grand mother of the decd.); Kannan and Choyi Choyi Ambu - distant relation - who were present at the hospital have been examined at the inquest.

Witness- 1, the Lady doctor in charge of the hospital speaks to the decd. having been brought to the hospital at 9-40 p.m., her attending on the deceased, for the injury which is likely to have been caused by a knife. The injury had been tied by means of a number of clothes to avoid bleeding and she found the intestines come out. It was a very serious injury and she also sent intimation to the police and the Magistrate for dying declaration. At about 1 A.m. in the night the patient died and she sent intimation to the hospital at 8-30 a.m. today.

(The doctor will be questioned further on receipt of the post mortem certificate.)

Witness 2 - Kavudiyan Chathu, s/o Chathu, Kolthur. He states that the deceased is her first daughter and is aged about 16 years. She was married to the accused about 8 months ago. About one and a half months ago (on the 7th ofMagaram) the deceased came and stayed in his house. Before that also she was very often coming and staying in his house.. The accused was not earning sufficient income and had been finding fault with the deceased, if food was not ready. The accused's sister and the latter's son (Mani and Ambukkan) were

living in thesame house, but were doing separate cooking with separate establishment. The accd. had been visiting witnesse's house often and had been pursuading witness to send the deceased to his own house, but witness was reluctant and about 4 days ago he gave an excuse that unless accused's sister goes and invites the deceased he is not prepared to send her as the deceased too was reluctant to go. The accused thereppon sen his sister Mani on Monday (9th instant) to fetch the decd. and the decd. went with her to the accd.'s house on the following day. Yesterday at about 10 or 11 a.m. he was informed by one Chaliyan Raman of Kolthur that the accd. had stabbed the decd. and so witness ran to the accd.'s house immediately and when he reached there he found the decd. resting on the laps of Mani(accd.'s sister) on the verandah with a big stab wound on the stomach. Both of them were weeping and on seeing him the decd. told that the accd. deceived that he called her inside the house and when she went inside he stabbed her etc. Mani also told in full details that early morning when Mani had gone to Ayyangooran Raman Nair's house(neighbour) for betel-nut, the accd. and the decd. were in the house, the decd. preparing vegetables for curry on the verandah, that a little later she ~~head~~ heard cries of the decd. and when she came there she saw the accd. running away with a knife, that the decd. told her that the accd. stabbed her and ranaway etc. With the help of other the decd. was carried to the hospital where she died at about 1 a.m. after midnight etc.

Witness 3 Raman, s/o Chathu. He is the brother of witness 2. He states that he heard that the accd. had stabbed the decd. when he (witness) was in Kolthur village. When he was going to the scene he found the decd. being brought to the hospital and seeing him the decd. told him that the accd. deceived ~~him~~ her by calling her inside the house and stabbing her. He accompanied the decd. to hospital where she died in the midnight.

Witness 4 Ichira d/o Ambu, is the grand mother of the decd. She too came to the hospital hearing about the decd. having been stabbed etc.

Witness 5 Kannan, s/o Ambu is living in Kolthu and is No. 2's nephew He too speaks to the marriage of the decd. with the acccd. about

8 months and that the decd. had been living in No. 2's for about 1½ months past and that No. 2's sister Mani went there and took her to their house 2 days ago etc. He heard about this occurrence when he was in his house and later followed the injured to the hospital. The injured told him also that the accused stabbed her etc.

Witness 6 Choyi Ambu, s/o Choyi. Is a neighbour of wit. 2. He too came to the hospital with the party carrying the decd. to the hospital, etc.

Having completed the inquest at 14-00 hrs. proceeded to the village along with the Inspector and halted in the village for the night at 23-00 hrs. Further investigation will be held tomofrow. The accused is absconding. H.C. 246 and P.Cs 836 and 165 have arrived the village and are guarding the scene and made attempts to trace the accused, but could not locate him. He is said to be hiding in the forests. He had been previously involved in a stabbing case in 1949 or 1950 in which case he was acquitted.

Sd/

S.I. of Police, Kadaragod. 12/3.

Countersigned. I was present ~~throughxthe~~ throughout the investigation and gave necessary instructions.

Sd/.
Inspector of Police, Kasaragod. 12/3

Police Station: Kasaragod. First information Bok No.47 & 47-A of 53 Dt. S.K.

Date and Place of occurrence:- Bedadka, 24 miles East.

Offence. Sec. 302 I.P.C.

Date (with hour) on which action was taken.

13-3-1953 .06.00 hrs.

I. 11-3-1953.

II. Report of the V.M. of Bedadka.

III. Accused Kavudiyan Muthu.

IV and V. -

VI. C.D. dated 12-3-53.

VII. Witnesses examined:-

7. Mani alias Choyichi, d/o Ambu, Bedadka.
8. Ambukkan, s/o No. 7.
9. Ayyangooran Raman Nair, n/o Koran Nair, Bedadka.
10. Kunhambu Nair, n/o Raman Nair, Bedadka.
11. Parvathi, w/o Ayyangooran Raman Nair, Bedadka.
12. Puttaraja, V.M. of Bedadka.
13. Manjunatha, Ugrani of the V.M. Bedadka.
14. Mani, wife of Chathu Kolthur.
15. Narayana, s/o No. 14, Kolthur.
16. Paru, d/o No. 14, Kolthur.
17. Chaliyan Rama, s/o Raman Kolthur.

Record of investigation.

Continuing investigation into the case this day I examinded the witnesses noted in the margin and also the scene of offence and made searches for the absconding. accd.

The place is known as Cherlu and the house is a small thatched hut on the slope of a hill. The plot belongs to one Ayyangooran Raman Nair whose house is situated 150 yards to the North on the slope of another hill almost on the same level with a small channel in the middle. The hut faces North with one main room the door which opens to the North, a narrow front verandah and a side room to the West enclsoed by cadjan leaves with its opening to the verandah mentioned above. An eye sketch is given, and a copy of the observation yadast is also enclosed The front verandah is open without any enclosure. On the Eastern side of the verandah there are some stains of blood and the earth from this place has been seized under the observation yadast.

Witness 7 Mani alias Choyichi states that she is the elder sister of

the accd. she saw the accd. leaving the house and going away towards the East through the hill slope. He had an open penknife in his right hand which was red with blood. His hand and dress were also red with blood. The decd. also came out of the room crying with a big wound on herstomach with her dress also full of blood. When witness left a few minutes earlier to Raman Nair's house the accd. and the decd. were alone in the house both seated on the verandah, the decd. preparing vegetables for cuury. She found the vegetables on the verandah itself witness made the decd. rest on her laps and sat on the verandah and the decd. said that her husband called her inside soon after left the house for tender cocoanut, that when she went inside he pressed her for cohabitation, that she declined being day time, that he caught hold of her and compelled her, that she tried to escape outside when he stood at the doorway, took out his penknife and then she cried aloud saying that she was being killed and then the accd. stabbed her on the stamach and ran away, and she continued to cry. Witness did not allow the wound to bleed and put all the clothes to the injury assisted witness Ayyangooran Raman Nair who too had arrived there and heard the decd. narrating the story. Immediately her son Ambukka who heard the cry when he was going for his work returned and arrived there. Witness as well as the decd. told him that the accd. stabbed her and ran away. By then neighbous Paravathiamma, Kunhambu Nair etc. also arrived there. Her son Ambukka was sent to th3 Potail and information was sent to the decd.'s father also. The injured was getting exhausted when the V.M. arrived at about 10 or 11 a.m. and a littl later decd. father also arrived there and after recording the statement of the decd., she was conveyed to the Kasaragod hospital, she does not know where the accd. has ran away.

This witness showed the place where she reached when she saw the accd. running away, the place where she found the accd., the blood spot on the verandah the place where she first heard the cries etc.

Witness 8 Ambukkan, s/o Mani. States that the deceased was

the accused Wit., her son Ambukka (aged about 24 years) and the accd had been living in the house for the last about four years. The accd. married the decd. about 8 months ago and started a separate establishment in the Western room. After one or two months she saw the accd. often finding fault with the decd. for reason such as food being not ready, etc. and there were quarrels also between the accd. and the decd. for the same reasons. Finally about 1½ months ago the decd. left the house for her father's house and the accd. also went andstayed in the latter's house, visiting this house also off and on. About 4 days ago the accd. came and requested her to go to the decd.'s father's house and fetch the decd. saying that she would not come and that he (the accd.) wanted to get the decd. here and live along with the witness as members of one single family without any sort of misunderstandings. Witness thereupon went to the decd.'s house along with her son Ambukka on last Monday and returned the following day along with the decd. The decd. told her that she was not willing to live separately with her husband alone as she was afraid that he would beat her and so agreed to return to the accd.'s house only if the witness went and invited her and live together. That night they had a common cooking and all of them including the accd. at food and slept. On the day of the occurrence, i.e. the following day also they prepared coffee together and all were served with coffee. Then her son Ambukka left for his usual profession and the accd. requested her to get one or two 'red' tender coconuts (known as chendenha for medical purpose) from the landlord Ayyangooran Raman Nair, saying that such tender cocaanuts were necessary to cure him of the black art played by some one on him. Accordingly she left to the neighbouring house of Raman Nair and received from her betel-nut standing on the verandah, and before she could raise the topic of the tender cocoanuts with Raman Nair who was in the garden, she heard a cry as 'I am being killed' from inside her house. She therefore ran to her house, followed by Raman Nair and others who also came hearing the cries, and when she was within

married to his uncle about 8 months ago, that there were frequent quarrels between the accused and his wife (the deceased) on account of the decd.'s failure to get food etc. ready for the accd., that about 1½ months ago the decd. left for her father's house and that the accd. also went and stayed there though off and on he was coming to this house also. About 4 days the accd. wanted his mother Witness 7 - to go to the decd.'s father and get the decd. He said that the decd. would not come to the house, and her father also supported the decd., unless Mani went and invited the decd. and unless they lived together. According, witness and his mother went to the decd.'s house about 4 days ago and returned with her the following day evening. Next day early morning at about 8 a.m. after finishing watering the chilly plantation he and other members, viz., the decd., the accd. and witness 7 - all took coffee and witness left the house for his profession(barber) as usual to Machalangot. His mother, the accd. and the decd. were present in the house when he left. When he had walked about 2 furlongs along the hill slope on the Western side of the house he heard very loud cries from the house and so he returned. As he was approaching the house he had seen the accd. going away from the direction of the house towards the South through the hill slope. When he arrived the house he found the decd. with a big stab wound on the stomach and resting on the laps of his mother. The decd. told him that his ~~xxx~~ uncle Muthu stabbed her and his mother also said so. He immediately ran to the P$_{o}$tail's house. Ayyangooran R$_{a}$man Nair who was also present there when he reached there was requested by witness to go to Kolthur or send information to Kolthur to decd.'s father. Witness went and told the V.M. what the decd. told him and the V.M. recorded his statement, came to scene and recorded what the decd. was able to state also and then the decd. was carried to the hospital by her father and others who had assembled there by then. Some drpps of blood that had fallen on the verandah had licked up by the dog and the vegetables on the verandah had been used by them.

This witness showed the place where he heard the cries where he saw the accd. going away etc.

Witness 9 Ayyangooran Raman Nair, n/o Koran Nair states that the plot in questinn belongs to him and he had allowed the accd. and witness 7 and 8 to live there in a small hut. The accd. had married the decd. about 8 months ago and there used to be frequent quarrels between the accd. and the decd. About 1½ month ago the decd. went and stayed permanently in his father's house and the accd. was also going there very often. Three days ago witness Mani andAmbukkan went and got the decd. back as desired by the accd. The following day. i.e. day before yesterday morning at about 8 a.m. he was working in the compound and witness Mani came to his coutyard and was receiving betel-nut from witness's wife Parvathi, when a cry was heard from the scene saying that 'I am being killed' etc. Mani then ran to the house and he too followed and when they were nearing the accd. was se n leaving the house and going away towards the South up the hill with a penknife. His hand, the dress etc. were full of blood. The decd. also came out of the house with a big wound on the stomach. When Mani asked her what the matter was the decd. said that the accd. called herinside the house and when she went inside she compelled her for sexual intercouse, that she refused to agree being day time, that the accd. then opened a knife upon which she raised an alarm and that the accd. then stabbed her on the stomach and ran away etc. Mani told witness that her son had gone away for work and that the accd. had sent her to witness's house for getting two red tender cocoanuts, and by the time she could ask him (witness) for the tender cocoanuts this unfortunate thing took place etc. By then Ambukkan returned having heard the cry on the way and the decd. told him that his uncle Muthu stabbed her. Ambukkan went away to inform the Potail and witness proceeded to Kolthur to infomm the decd.'s father, and after searching him returned as he heard that the father had already reached the scene having come to know of the occurrence from other persons. When witness reached back the decd. had been taken away to the hospital.

Witness 10 Kunhambu Nair, n/o Raman Nair lives about 1½ furlongs away and he came to the scene on hearing the cries at the scene and when he came to the scene he saw the accd. proceeding towards the South through the hill at a distance. The decd. told that the accd. called her inside

her inside the house and stabbed etc.

Witness 11 Parvathi, wife of Raman Nair states that on the day of offence early morning/at about 8 a.m. witness Mani went ther and wanted to request her husband witness Raman Nair, who was in the garden, for red tender cocoanuts, that witness gave her betel-nut and then loud cries were heard saying that 'I am being killed' from the house of witness Mani. The latter then ran there and her husband Raman Nayar who too heard the cry also ran, but witness could go only slowly as she had a sprain on herleg, as she was going the accd. was seen walking up the hill on the Southern side. Witness Ambukkan, neighbours Kunhamy 6 Nair and others also came there. The decd. told that her husband called her inside and stabbed her. Later the V.M. also came and recorded what the decd. stated and the decd. father and other people carried her to the hospital. This witness also speaks to the frequent quarrles between the decd. and the accd., the decd. going away to her father's house and her having been brought back by witness Mani about 4 days ago etc.

Witness 12 Puttraja, V.M. of Badadka states that on the day of occurrence at about 10 a.m. witness Ambukka went to him and told him that his uncle Muthu had stabbed his wife Chirudeyi and he recorded his statement, then proceeded to the scene and found the decd. with a big wound on the stomach and in a very exhausted condition. She al stated that her husband stabbed her etc. and witness recorded the statement and sent the reports etc.

Witness 13 Manjunatha, s/o Yellayya, Ugrani, speaks to his having accompanied the V.M. and taking the report to Kasargod etc.

A thorough search was made for the accd. in the forest area with the help of the V.M. and H.Cs.246,277 and P.Cs.836,165,880,735 and 1035, but he could not be found. A search was made along the path taken by the accd. and also in and around the house for the knife and other incriminating objects, but nothing was found.

I proceeded to the house of the decd.'s father and questioned further witnesses.

her inside the house and stabbed etc.

Witness 14 Mani is the mother of the dcd. She speaks to the marriage of the decd. with the accd. about 8 months ago, that the decd. was expressing her inability to live with the accd. as the latter was beating her etc., and about 1½ months ago she went from the accd.'s house and stayed with them. The accd also used to go there and stay there for some days at a stretch and was asking for the decd to be sent back to his own house, but the decd. was unwilling to go as the accd. was living as a separate establishment in his house where the accd.'s sister and the latter's son too were living. The decd. would not agree to go and live in a separate house along with the accd., but chose to go to the old house if the accd.'s sister came and invited and if they would live together The accd. agreed and about 4 days ago sent his sister witness7 - and her son to fetch the decd. and the decd. went with them. Next day at about noon she was informed Chalian Raman that the accd. had stabbed the decd. and he was sent to inform her husband as she could not proceed with her infant baby. Her husband went direct to the scene and from there the decd. was taken to the hospital and on the following day she heard that her daughter succumbed to the injury in the hospital.

Witnesses 15 Narayana and 16 Paru - children of No.14 and othertwo small children in thesame house questioned separately are not ina position to state anything useful.

Witness 17 Chaliyan Raman, s/o Raman of Kolthus speaks to his having heard about the stabbing of the decd. by her husband and searched for her father in Kolthur and informed his etc.

I made detailed enquiries in thelocality to find out if the accd. has visitedanywhere this area, but could not get any inform-ation Leaving H.C.277 and P.C.1035 to watch the house of the accd and trace him I returned to Kasaragod with the men at 21.00 hrs., closed the investigation for the day and halted at Kasaragod.

Sd/K.Batiappa,
13/3
S.I.of Police,Ksaragd.

Countersigned. I was with the S.I. during the investigation and gave ncessary instructions and directions.

Sd/ xx xx 13/3

Police Station: Kasaragod. First information Book No. 47 & 47-A of '53 S.K. Dt

Date and place of occurrence: 11-3-53 - 8 a.m. Bedadka - 24 miles East.

Offence.	Sec. 302 I.P.C.
Date (with hour) on which action was taken.	Record of investigation.
14-3-1953 - 07.00 hrs.	The copy of Post Mortem certificate has been
I. 11-3-53.	received and the following is a copy:
II. Report of the V.M. of Bedadka.	"No. 8/53.
III. Accd. -Kavudiyan Muthuv.	Regarding the body of a female aged about 16 years named Chirutheyi.
IV and V.	Requisition received at 11-30 a.m. on 12-3-53 from
VI. 13-3-53.	the S.I. of Police, Kasaragod with letter No. nil
VII. Wits. exd.-	dated 12-3-53.

Body in charge of police constable No. 880 Achutha.

Identification and ~~xxxxxxxxx~~ caste marks:- Black mole on the right cheek, black mole just below the right eye.

The body was first seen by the undersigned at 11.30 a.m. on 12-3-53.

Its condition then was rigor mortis present.

Post Mortem commenced at 3 p.m. on 12-3-53.

Appearances found at the post mortem:

External appearance-features calm and pale hair black, length 16" eyes closed; teeth complete; jaws clenched; hands clenched and empty.

External injuries:

1. sutured transverse wound 10" long, just ½" above the umbilicus, extending from the right side of the abdomen 5" lateral to the middle line straight to the left side to 5" length.
2. An abrasion ½" x ¼" on the medial aspect of the right toes.

Internal examination: Fluid blood about 4 oz. in the peritoneal cavity. Heart - 4 oz. - normal. Rt. lung - 10 oz.; left lung- 8 oz.- both normal.

Stomach: - distended with about 10 oz. of coffee coloured fluid.

Liver: 24 oz. normal.

Spleen: 3 oz. normal - Kidneys: each 4 oz. - normal.

Small intestines:- 1. Transverse penetrating incised wound 1" long and half inch broad on the small intestine just above the messentree attachment through which round worms escape.

2. Penetrating incised wound ¾ " x ½" about 3" below ✗ on the small intestine on the same side.

3. Penetrating incised wound ¾" x ½" about 2" below to injury No. 2 on the ✗ opposite side.

Transverse colan: The greater amentun was torn abo.t 3" long from its attachment to the transvers colan.

Uterin: - 1 oz. empty - normal.

Brain: 40 oz. - normal.

Opinion as to cause of death:

The deceased would appear to have died of shock and haemmorhage due to the result of injuries described.

Kasaragod
12-3-53.

Name: R.Chaco.
Rank: Woman Asst. Surgeon.

The accused in the case is absconding. He appears to be an undesirable and rowdy. He is the accused in Cr.No.95/49 of this station, sec. 448, 324, 451 and 354 in which case he assaulted one Chandu Maniani having entered his house to molest his daughter and was convicted under sec. 451 I.P.C. and released under sec. 562 Cr.P.C. in C.C. 393/49 by A.F.C.M., Kasaragod on 21-12-49. Informats have been set up to trace him, and men will be deputed to arrest him.

Sd/

S.I. of Police, Kasaragod 14-3-53.

99

ice Stn: Kasaragod. First information Book No. 47 of 53 S.K. Dt.

Date of and place of occurrence: 11-3-53 Bedadka.

Offence.	Sec. 302 I.P.C.
Date (with hour) on which action was taken.	Record of investigation.

15-3-53.

1800

I. 11-3-53.

II. Report of the V.M. of Bedadka.

III. Accd. Kavudiyan Muthu.

IV and V.

VI. C.D. dated 14-3-53.

VII. Wits. exd.

1. Dr. R. Chaco M.B.B.S. Govt. Hospital Kasaragod.

This day I questioned the Doctor who states that the injuries mentioned in the wound certificate indicate only one stab and due to the ~~moment~~ movement of the blade of the knife inside the gaping wound would have caused the other injuries. The wound is likely to have been caused at the alleged time and that an ordinary penknife would be sufficient to cause the injury.

The accused is still absconding. P.Cs deputed on special duty have not been able to trace him. Informants have been set up to ~~together~~ gather clue regarding him. Further in enquiries will be made.

Sd/

S.I. of Police, Kasaragod
15-3-53.

Police Stn: Kasaragod. First information/ Book No. 47 of 53. S.K. Dt.

Date ~~of~~ and place of occurrence. 11-3-53 - Bedadka.

Offence. Sec. 302 I.P.C.

Date (with hour) on which action was taken.	Record of investigation.
19-3-53.	In this case further searches were made by me and my men and with the assistance of private persons in Bedadka village arround the house of the accd. in the forest where the accd. was learnt to be hiding on 16-3-53 and 17-3-53 but he could not be traced.
I. 11-3-53.	
II. Report of the V.M. of Bedadka.	
III. Accd. Kavudiyan Muthu.	Yesterday night towards the early hours of the morning the accd. was caught by private individual by Ayangooran Chindan Nair, with the aid of some of his men and was produced at the station today at 11 a.m. and was questioned in detail.
IV and V.	He states that his wife (the decd.) was unfaithful to himself and was carrying on with his nephew Ambukkan though she had not formally matured. There was no difficulty to have intercourse with h as she had heard that her mother too had become pregnant without attaining maturity. He had warned his nephew and his mother Manikkam as well a the decd. that Ambukkan should not do like this. The decd. had admitted that Ambukkan compelled her several times and so she had to yield and promised to be faithful to him (accd.) but again she gave room for suspicion and so he took her to her parent house about 2 months ago and left her there. He had told about the decd.'s intimacy with Ambukka to the Ø decd.'s father and mother and also to his landlord (Raman Nair neighbour) He was never quarrelling with the decd. on account of food being not ready as alleged. Finally the decd. was brought back to the house by Ambukkan an his mother on the previous day and she and his siste accd's slept together and Ambukkan slept on the verandah
VI. 15-3-53.	
VII. Wit. exd.	

On the day of offence early morning he went away to water his chilly garden and his nephew had gone for his usual work as a barber. At about 8 a.m. he noticed Ambukkan stealthily returning to the house under the cashew trees and so he also returned a little later through another way. He went and watched through the thattie enclosure from the rear and saw the deceased and nwphew Ambukkan lying together and so went through the front and by the time he could reach there Ambukkan got yhe scent, and jumped out and ran away. He asked his wife if she could repeatedly do like this and she said she was finding helpless as Ambukkan was compelling her. He got angry. stabbed her on thestomach with his penknife and as she raised a cry he ran away and was hiding in the forests. Yesterday he thought of approaching Chindan Nair to surrender him before the police and so went and slept in a vacant hut about a furlong away from Chindan Nair's house. At midnight, Chindan Nair, Ambukkan and about 5 or 6 others went to him, beat him strike his hand and tied him with rope and brought him here after beating and kicking him all over the body.

The accused has several injuries on him. As far as his complaint against those who caught him, is concerned I have registered F.I.R. 54/53 u/s 325. and the same is being investigated separately.

The accused's story appears to be fentastic. The clever rogue that he is (as already reported) he has chosen to yarn the present story to save himself on the ground that his act may be constructed as due to grave and sudden provocation. If at all his story is true what he did amounts a free meditated murder for it is clear that he knew about the connection between herself and Ambukkan and was evidently waiting for an opportunity to catch her redhanded. Then again t should have been Ambukkan who should have been stabbed if the accused claims this Act to be the result of grave and sudden provocation, and not the woman alone. On having been feeling satisfied about th reprehensible conduct of the wife (from her own confessions) he should have severed her connection

with her, if there is any truth at all in what he says. However I am verifying his statement.

I questioned the lady Doctor again. She states that she had examined the decd. and found her fully developed in all parts and she had matured.

I questioned Ayangooran Chinden Nair, Ambukkan, Krishnan Nair s/o Koran living in the same village, and known to both parties. All of them state that the story regarding the intimacy as alleged by accd. is totally false.

I questioned the parents of the decd., the sister of the accd. and their landlord Raman Nair, and thay state that the the accd. had never complained regarding the alleged intimacy nor was there any indication of any such intimacy between Ambukkan and the decd. and that the story given by accd. is false.

I also verified if it was correct that the accd. had gone out for watering chilly garden in the morning, but found it to be false It is actually Ambukkan who had gone for watering.

Detailed enquiries into the complaint of theaccd. are given in C.D. in Cr.No.54/53.

The accd. has been sent for remand. After consulting A.P.P.I the case will be charged.

Sd/ K. Batiappa.
S I. of Police, Kasaragod 19/3/53.

N.B.

A small penknife (admitted by accd. to have been used.) and the clothes ofthe accd. found with the accd. have been seized.

Police Station - Kasaragod - First Information Book No.47 of 1953 - South Kanara District - Date and Place of occurrence -11-3-53 - Bedadka.

Offence - Section 302 I.P.C.

Date(with hour) on which action was taken.
25-3-53.

I. 11-3-53.

II. Report of the V.M. of Bedadka.

III. Accused Kavudiyan Muthu.

IV and V -

VI 19-3-53.

I have this day submitted a charge sheet in the case after consulting A.P.P.I. Mangalore. Copy of the memo. of evidence and charge are enclosed.

The accd. has a fracture on his left hand and is under treatment. I have submitted a report to S.S.M. Hosdrug requesting him to record the cofessional statement of the accd.as there are no magistrates empowered at Kasaragod and the A.F.C.M. expressed language difficulties as ~~xxxxxx~~ accd. is a Malayalee. I have also submitted reports to the chemical Examiner through S.S.M. Kasaragod for forwarding blood stained ~~xxx~~ articles.

Sd/K.Batiappa,25/3
S.I.of Police,Kasargod.

/True copy/

4/4 Casker

Mangalore,
29-9-1953.

Dt.Superintendent of Police,
South Kanara.

3/29/5

(A) 109

102—25-5-53.

Current No. 188623 Cts. I/53. **HOME (COURTS I) DEPARTMENT.**

Condemned prisoner— KAVUDIYAN MUTHU.

Statement

~~Pro-forma~~ *showing the relevant dates of the case.*

1. Date of occurrence: 11-3-53

2. Date of arrest; 19-3-53

3. Date on which challan was put up in Committing Court: 1-4-53.

4. Date of committal order by the Committing Magistrate: 8-6-53

5. Date of commencement of trial in Sessions Court: 6.7.53

p24 C.P.

6. Date of judgment of Sessions Court: 9.7.53 p37 C.P.

7. Date of judgment of High Court: 21.9.53 p139 C.P.

8. Date of filing of $\frac{\text{application for special leave to appeal}}{\text{appeal}}$ to Supreme Court:

9. Date of $\frac{\text{order}}{\text{judgment}}$ of Supreme Court:

10. Whether delay at all stages has been explained

Yes.

Parl 29/9/53.

[Man. Form 30.] Home Dept. I-20—302—4-4-50.

PETITION FOR MERCY.

[C. No. 188623 Cts. IV/53.

HOME DEPARTMENT.

p5 C.P.

From the Deputy Registrar, Appellate Side, High Court, No. B.C.406/53, dated 30.9.53. xx .

[C. No. ——————.]

p.23 C.P.

From the Superintendent of the Central Jail, Cannanore, No. R.15/4663/53, dated —.10. 19 53,

p.27-37 C.P.

forwarding appeal for mercy from Convict No. 7137. Kavudiyan Muthu,

——————————————————————,

——————————————————————, under sentence of death

p7-11 C.P.

in South Kanara Sessions Case No. 10 of 19 53,

which sentence has been confirmed by the High Court in Criminal

p13-19 C.P.

Appeal No. 462/53 (R.T. No. 87/53).

FOR ORDERS.

Mon p23 C.P.

The Superintendent of the Central Jail, Cannanore certifies that the sentence will not be carried out until a definite reply from the Government has been received.

2. The sentence of death passed on the petitioner is not for an offence against any law exclusively relatable to a matter to which the executive power of the Union extends and should therefore be considered by the State Government in the first instance.

Rme
11/11/53.

p7 C.P and para 1 p13 C.P.

The petitioner, Kavudiyan Muthu, in the Central Jail, Cannanore, was sentenced to death, on 9.7.53, by the Sessions Judge, South Kanara, for having committed the murder of his wife, Chirudai, by stabbing her with a knife at about 8 A.M. on 11.3.53 at Bedadka. The death sentence was confirmed by the High Court on 21.9.53. The petitioner is aged 27 and his deceased wife was aged about 16.

X on p.13+19 C.P.

p25 C.P

X on p 28 ¶(2)

2. The case of the prosecution was the following:-

The petitioner and the deceased were married about

9 months before the occurrence and were living together with the petitioner's sister (P.W.1), and her son (P.W.2), in the village. As a result of continued ill-treatment by the petitioner, the deceased went back to her parents' house, 3 or 4 miles away, about six weeks before the occurrence. On the day previous to the occurrence, P.Ws. 1 and 2, at the instance of the petitioner, fetched her back with assurances of better treatment. At about 8 A.M. on 11.3.53, the date of occurrence, the petitioner sent his sister (P.W.1) on some errand to the house of P.W.4 nearby. P.W.2 had already left for his work ~~as barber~~, so that the petitioner was alone with the deceased in the house. A little later, P.W.1 heard the deceased's cry that she was being killed. On running back to her house, she saw the petitioner stabbing the deceased in the belly with a pen-knife, ~~holding her against the wall by her throat~~. The petitioner ran away when P.W.1 reached the house and the deceased came out and fell down on the verandah. P.W.1 propped her up in a sitting posture. The deceased told her at that time that the petitioner asked her to spread the mat (apparently for sexual intercourse) and that he stabbed her when she refused to comply with his wish, it being day time. By that time, P.W.2 and the neighbour P.W.4 had also arrived. At about 10 A.M., P.W.2 gave a statement to the village patel (P.W.5), living about 2½ miles away, in which he narrated the incident on the above lines. On arriving at the scene, the village patel also was told by the deceased that her husband had stabbed her and split her stomach with a knife. This was recorded by him, and the usual reports were sent to the authorities. The patel (P.W.5) also arranged for the

despatch of the injured to the hospital, about 14 miles away. The deceased reached the hospital at about 9-30 P.M. and medical aid was given, despite which she died at 1 A.M. the same night (11/12.3.53).. Before her death the deceased gave a dying declaration to the Sub Magistrate at about 11-30 P.M. and another statement to the police Head constable (P.W.7), in both of which she stated that she was stabbed by her husband.

The petitioner made himself scarce from the scene of occurrence and was arrested 8 days later by P.W.2 and another, Chindan Nair (brother of P.W.4), in a dis-used hut, on the night of 18.3.53.

3. According to the medical evidence, the injury inflicted on the deceased was necessarily fatal. The abdomen had been ripped open, causing a transverse incised wound, 10" long, right across the abdomen, with the stomach and the intestines protruding.

4. The petitioner's defence in the Committing Court and in the Sessions Court was that the entire case against him had been concocted by his enemy, Chindan Nair (not examined), in whose hands P.Ws. 1 and 2, who also bore a grudge against him, as well as the patel (P.W.5), played willing tools. His version then was that a little before the occurrence he left the house for his work, but was called back by the cries of P.W.1 to find his wife lying injured by the mettukathi (a knife fixed to a wooden base with its point pointing upwards) with which she was peeling vegetables, that he was informed by P.W.1 that the deceased had a fit and had sustained the injury by falling on the mettukathi, but that Chindan Nair, his enemy, and others who came there, persuaded P.Ws. 1 and 2 to twist the story implicating the petitioner as the accused. The Sessions Judge considered the

petitioner's version of what took place as fantastic and altogether unacceptable. In his memorandum of appeal to the High Court, the petitioner stated that he saw his wife (the deceased) having intercourse with his nephew (P.W.2) that morning - that is, practically, his version in his long petition for mercy also - by peeping through the holes of the door, ~~that morning~~ that he got enraged and aimed a cut on P.W.2, with the koduval he had, and that as ~~but~~ P.W.2 slipped away ~~and~~ the cut fell on his wife. The High Court rejected this story of the petitioner as flimsy and not entitled to any consideration at its hands. The Sessions Court as well as the High Court had no hesitation in accepting the evidence of the prosecution. The High Court had no doubt whatever that the immediate reason for the petitioner stabbing the deceased was the latter's refusal to have sexual intercourse that morning. Both the Courts have found no extenuating circumstances and the petitioner has accordingly been sentenced to death.

The mercy petition is submitted below for orders.

S. Balakrishnan
12-11-53

The petitioner ~~suggested~~ in the Sessions Court that the deceased had fallen over the "vettukathi" while she was peeling vegetables & the Sessions Judge rightly disbelieved this story; for there was then no reason for the petitioner to make himself scarce, leaving the report to the authorities to be made by others. The other story (before the High Court & in the mercy petition) that he saw the deceased & P.W.2 in a compromising position & therefore lost his head is also obviously false; for in the Sessions Court the said that he & his wife were on good terms. The High Court observes

188623(IV)

that the refusal of a wife to have sexual intercourse in the morning does not amount to any kind of provocation for the husband committing a dastardly murder. The stabbing was of a piece with the previous ill-treatment of the deceased by the petitioner and there seem to be no grounds for clemency in this case.

J.N.S. Rajadhyaksha
12.11.53

M(Law) Petition may be dismissed
K.D. Keer
26-11-53

CM. This is a case where a man has brutally done to death ~~his wife~~ a helpless girl wife no clemency is called for and the petition is recommended for rejection

C. Rajagopalachari
26.11.53

The petition be and is hereby rejected.

S.R. Das
29.11.53

A.S.I
Drafts submitted.

1.1 Rec 24/12/53.

24/12/53

[Issued as memo. no. 188623-3/d. 3/12/53
Ex. Cr. 4.12.53]

6

From the Supdt., C.J., Cannanore, no. R.15/5231/53, d. 5-12-53. p41/P

A.S. I

Subd. for perusal. The orders of the President of India may be awaited.

9.12

Pers 8/12/53.

From the Govt. of India, Ministry of Home Affairs, no. 32/194/53-Estt., d. 22-12-53. p43/P

A.S. II

Three drafts are subd. for approval. The Press Note may be sent to Public (I+P) for acceptance & after issue of drafts I+II drafts III

Pers 29/12/53. 29.12.53 Pub (I+P)

[Issued as G.O. and Ed. Pr. nos. 4955-56, Home, d. 29.12.53] p45/46/P

ASSISTANT SECRETARY TO GOVERNMENT 30 DEC 1953 HOME DEPARTMENT

Home 232429 Cls IV/53-5, d. 29.12.53

Pub (I+P)

The draft Press Note placed below may be perused and the case returned to Home.

30/12

Home (Pub I+P) U.O. 9622/53-I 30/12/53

PUBLICITY 9622 30 DEC 1953

188623 Cts II
Rail

7

A.S. II

The draft Press Note below, which has been seen by Public (P.) may now be circulated for approval.

(Copy will be issued with the usual covering letter.)

93/
31/12

Rm
31/12/53.

S. Balakrishnan
31.12.53

J.N.J. Roy
31.12.53
S

M (Law) K.D. Kaicker
31-12-53

CM : Rajagopalachari
2.1.54

Rm
4.1.54

A.S. II

The case may now be sent to public (D & P) for issue of Press Note. The date of execution has been entered in the draft.

Rm
6/1/54.

fb
5.1.54

Pub (D&P)

ASSISTANT SECRETARY TO GOVERNMENT
8 JAN 1954
HOME DEPARTMENT

Pub (D&P)
4 Con. no 113/54
8/1/1954

Home 188623 Cts II/53-b

5/1/54.

3828

DEPUTY DIRECTOR OF INFORMATION AND PUBLICITY
D&P
5- JAN 1954
113

The Press Note has been issued with special covering letters to the Editors of dailies and the case may be returned to Home.

5.1.54

7.1.54

8.1.54

Home

8

Home Dept

A.S.D

the case may be closed

9.1.54

9.1.54.

Home Department.

Summarising Note.

The petitioner, Kavudiyan Muthu, in the Central Jail, Cannanore, was sentenced to death on 9.7.53, by the Sessions Judge, South Kanara, for having committed the murder of his wife, Chirudai, by stabbing her with a knife at about 8 A.M. on 11.3.53, at Bedadka. The death sentence was confirmed by the High Court on 21.9.53.

2. Background and motive: The petitioner and the deceased were married to each other about 9 months prior to the occurrence and were living together with the petitioner's sister and her son, P.Ws. 1 and 2. Owing to the petitioner's ill-treatment, the deceased left him and stayed with her parents till the day previous to the occurrence, when she was brought back to the petitioner's house by his sister and nephew, on assurances of better treatment.

At about 8 A.M. on the day of occurrence, while P.Ws. 1 and 2 were away from the house, the petitioner asked the deceased to spread a mat (apparently for sexual intercourse) which she refused, it being day time. Thereupon the petitioner set upon her and stabbed her with a knife as a result of which she died the same night (at 1 A.M. on 12.3.53).

3. Age and relationship: The petitioner is aged 27. His deceased wife was aged about 16. The petitioner's sister P.W.1 is aged 58 and his sister's son P.W.2 is aged 24.

4. Nature of the murder: Death was due to a fatal injury on the abdomen which was ripped open with a knife causing a transverse incised wound 10" long, through which the intestines and stomach protruded. The stabbing was at about 8 A.M. The victim was admitted in the hospital, 14 miles away, at 9-30 P.M. and the death was at about 1 A.M. the same night (11/12.3.53).

P.T.O.

5. Story of the crime, evidence, etc.: The petitioner stabbed the deceased when he was alone with her in the house. P.W.1 and the other witnesses came to the scene on hearing the deceased's cry. The deceased told them that the petitioner stabbed her. At about 10 A.M. the village patel was informed about this, who, on arrival at the scene, recorded a statement from the deceased, which was to the effect that she was stabbed by the petitioner. The deceased was taken to the hospital which she reached at about 9-30 P.M. Despite treatment she died at about 1 A.M. Shortly before her death (at 11-30 P.M.) a dying declaration was recorded from her by a Magistrate. In this as well as in another such statement recorded by a police Head Constable, soon after the dying declaration was recorded by the Magistrate, the deceased had stated that she was stabbed by her husband.

The petitioner, who made himself scarce from the scene of occurrence, was arrested 8 days later (on the night of 18.3.53), in a disused hut.

The petitioner's defence in the Sessions Court was that the injury was caused to the deceased (who was subjected to fits) by her falling on the sharp instrument with which she was peeling vegetables for cooking. In his appeal petition to the High Court - ~~that~~ which is also, more or less, his version in his petition for mercy - he admitted having inflicted the cut with the knife but gave a different story. On the date and at about the time of the occurrence he returned to the shed unexpectedly and noticing the door closed peeped from a low window, saw his wife in a compromising position with P.W.2, his nephew. Enraged at this he whipped out his knife and inflicted a cut, which, though intended for P.W.2,

fell on his wife. The High Court found that this version was not entitled to any consideration and held that no extenuating circumstances could be attempted, much less proved, in a case like this.

2 1953 Cr. L. J. 1953 S.C.R.

S Balakrishnan
12 11 53

J N S Rao
5 12 11. 53

CH.

C. No. 18862 30: IV

R.C.

9/25/11

15

UNOFFICIAL NOTES.

Condemned prisoner - Kavudiyan Muthu.

M(Law) I see no ground to exercise clemency.

K.D. Kaimal
13-11-53

CM A helpless girl has been brutally killed by the husband who asks for mercy. I do not think we should extend any clemency in this case.

C Rajagopalachari
14.11.53

The petition may be rejected

Sri Prakasa
21.11.1953

Recommended for recording formal warrants

J.N.P. Raghavan
23-11-53

M(Law) K.D. Kaimal
26-11-53

CM CR 26/11

Sri Prakasa
29.11.1953